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FILED
(ENDORSED)
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DAVID H. YAMAWAKI
Chief Executive Officer/Clerk
Superior Court of CA County of Santa Clara
BY L Barajas DEPUTY

10 **IN THE SUPERIOR COURT FOR THE**
11 **COUNTY OF SANTA CLARA**

12 **SAN JOSE POLICE OFFICERS**
13 **ASSOCIATION,**

14 Plaintiff,

15 v.

16 **CITY OF SAN JOSE, BOARD OF**
17 **ADMINISTRATION FOR POLICE AND**
18 **FIRE RETIREMENT PLAN OF CITY OF**
19 **SAN JOSE, and DOES 1-10 inclusive.,**

20 Defendants.

21 **AND RELATED CROSS-COMPLAINT**
22 **AND CONSOLIDATED ACTIONS**

Case No. 1-12-CV-225926

[Consolidated with Case Nos. 112CV225928,
112CV226570, 112CV226574, 112CV227864]

DECLARATION OF ALEX GURZA IN
SUPPORT OF DEFENDANTS' AND
CROSS-COMPLAINANT'S MOTION FOR
SUMMARY ADJUDICATION

VOLUME 2

EXHIBITS 9 THROUGH 34

Date: April 23, 2013
Time: 9:00 a.m.
Dept.: 8

Complaint Filed: June 6, 2012
Trial Date: None Set

23 I, ALEX GURZA, declare:

24 1. I am a Deputy City Manager and the Director of the Office of Employee Relations
25 in the City Manager's Office for the City of San Jose (hereinafter, "City"). I submit this
26 declaration in support of the City's Motion for Summary Adjudication. I have personal
27 knowledge of the facts set forth below and if called as a witness I could and would testify
28 competently thereto.

Case No. 112CV225926

DECLARATION OF ALEX GURZA IN SUPPORT OF CITY OF SAN JOSE'S MOTION FOR SUMMARY
ADJUDICATION

1 2. I have been employed by the City of San Jose in the Office of Employee
2 Relations since October 3, 1994. During that time, I have been responsible for the formulation
3 of City policies in connection with employee compensation and benefits and for the
4 negotiation of wages, benefits and other terms and conditions of employment with the labor
5 unions that represent City employees.

6 **The City of San Jose's Workforce**

7 3. The City employs approximately 5400 full-time equivalents ("FTEs"); FTEs are
8 the combined total number of budgeted full-time positions. For example, one full-time position
9 equals one FTE, and two half-time positions equal one FTE. The majority of the workforce is
10 organized. The following labor unions represent City employees:

- 11 • Association of Building, Mechanical and Electrical Inspectors (ABMEI) –
12 approximately 67 FTEs.
- 13 • Association of Engineers and Architects (AEA), IFPTE Local 21 (Units 041,
14 042 and 043) – approximately 214 FTEs
- 15 • Association of Legal Professionals (ALP) – approximately 36 FTEs
- 16 • Association of Maintenance Supervisory Personnel (AMSP), IFPTE Local 21 –
17 approximately 78 FTEs
- 18 • City Association of Management Personnel (CAMP), IFPTE Local 21 –
19 approximately 329 FTEs
- 20 • Confidential Employees' Organization (CEO), AFSCME Local No. 101 –
21 approximately 189 FTEs
- 22 • International Association of Firefighters (IAFF), Local 230 – approximately __
23 646 FTEs
- 24 • International Brotherhood of Electrical Workers (IBEW), Local 332 –
25 approximately 73 FTEs
- 26 • International Union of Operating Engineers, Local No. 3 (OE#3) –
27 approximately 664 FTEs
- 28 • Municipal Employees' Federation (MEF), AFSCME Local 101 –
 approximately 1851 FTEs
- San Jose Police Officers' Association (SJPOA) – approximately 1107 FTEs

 4. The City workforce also includes two units of unrepresented employees, the
Executive Management and Professional Employees (Unit 99), and Other Unclassified Non-

1 Management Employees (Units 81 and 82).

2 5. The City establishes terms and conditions of employment with its labor unions
3 through collective bargaining. Periodically, the City and labor unions enter into Agreements,
4 which are ratified by the union membership and approved by the City Council through enactment
5 of resolutions. If the City and labor unions cannot come to agreement, the City may implement
6 after impasse procedures the City's Last, Best and Final Offer ("LBF") by City Council resolution,
7 except that if the City and the unions representing police officers and firefighters do not come to
8 an agreement, depending on the issue, the City Charter provides for interest arbitration to resolve
9 the dispute. For unrepresented employees, the City Council establishes compensation by
10 resolution. Retirees are not represented by any City labor union.

11 **Plaintiffs In This Case**

12 6. Plaintiffs in these five consolidated cases are either City labor unions or current and
13 retired former members of City labor unions, including:

- 14 • Plaintiffs in the *Mukhar* case are current and retired former members of the
15 Association of Engineers and Architects [Mukhar is president of AEA], and
16 Association of Maintenance Supervisory Personnel ([Dapp is president of
17 AMSP.
- 18 • Plaintiffs in the *Sapien* case are current and retired former members of the
19 International Association of Firefighters (IAFF), Local 230.
- 20 • Plaintiffs in the *Harris* case are current and retired former members of the
21 International Union of Operating Engineers, Local No. 3 (OE#3).
- 22 • Plaintiff AFSCME is a labor union representing two City bargaining units
(Municipal Employees' Federation [MEF] and Confidential Employees'
23 Organization [CEO]).
- 24 • Plaintiff SJPOA is a City labor union.

25 **City Retirement Plans**

26 7. The City has two retirement plans, the Police and Fire Department Retirement Plan,
27 for police officers and firefighters, and the Federated City Employees' Retirement System, for all
28 other employees. The provisions for these plans are established in the City Charter, City
Municipal Code and agreements with labor unions. The plans include both pension and retiree
health benefits. The plans are administered by two independent retirement boards, which invest

1 retirement funds, contract for audit and actuarial services, issue financial reports and determine
2 employee eligibility for benefits.

3 8. Based on actuarial reports, the boards establish yearly contribution rates to be paid
4 by employees and the City, as a percentage of salary, to fund employee retirement benefits.
5 Although the independent retirement boards determine the yearly contributions needed to fund the
6 plans, the Charter, Municipal Code and agreements with unions determine how contributions are
7 to be divided between employees and the City.

8 **Measure B**

9 9. Beginning in 2009, the City's contributions for retiree pensions began to
10 dramatically increase and create significant deficits in the City budget. In September 2010, the
11 City's Auditor released a report entitled "Pension Sustainability: Rising Pension Costs Threaten
12 The City's Ability To Maintain Service Levels – Alternatives For A Sustainable Future." The
13 Auditor's Report contained a number of recommendations to reform the City's retirement systems
14 and decrease costs. A true and correct copy of the Auditor's report is attached as Exhibit 1.

15 10. In May 2011, the City Manager released the Fiscal Reform Plan with
16 recommendations to achieve cost reductions and/or new revenues for the General Fund to allow
17 for a restoration of services, including addressing increasing retirement costs.

18 11. In 2011, the City began to meet and confer with City unions over a plan to amend
19 the City Charter to reform the City's retirement systems. Under the requirements of *Seal Beach*
20 *Police Officers' Assn. v. City of Seal Beach*, 36 Cal. 3d 591 (1984), the City met and conferred for
21 over a year but ultimately did not reach any consensus with unions over retirement reform
22 measures.

23 12. In March 2012, the City Council voted to place Measure B on the ballot to amend
24 the City Charter's retirement provisions. In June 2012, the voters enacted Measure B by
25 approximately 70 percent in favor of Measure B. Soon after, City labor unions, employees and
26 retirees filed the five actions that were later consolidated under the caption for this case.

27 13. Measure B contains provisions that address employee contributions to pension and
28 retiree health benefits, the creation of alternative pension plans, the end of a supplemental retiree

1 benefit reserve, disability retirement requirements, and suspension of cost of living increases in the
2 event of an emergency, among other issues.

3 **Employee Contributions Towards Pension Plans**

4 14. Measure B requires employees to make additional pension contributions to the
5 retirement system to defray pension plan unfunded liabilities unless they voluntarily elect to enroll
6 in an alternative lower cost plan. Specifically, Measure B Section 1506-A requires employees to
7 make additional payments in increments of 4% of pensionable pay per year, up to a maximum of
8 16% of pensionable pay per year, but no more than 50% of the costs per year to amortize any
9 pension plan unfunded liabilities. (Section 1506-A). These contributions are credited to
10 employees' retirement accounts.

11 15. Prior to the enactment of Measure B, City employees made "additional" pension
12 contributions under agreements between the City and its labor unions for the purpose of paying
13 towards the City's unfunded pension liabilities. City employees also made, or were required by
14 the City to make, wage concessions as an alternative to making additional pension contributions.
15 The City considers retirement contributions, wages and other benefits to be part of "Total
16 Compensation" for City employees. "Total Compensation" is the total cost to the City of pay and
17 benefits, including base pay, retirement contributions, health insurance, and other benefits.

18 16. As stated above, in 2009, the City faced significantly increased retirement
19 contributions towards employee pension benefits and a large deficit caused in large part by the
20 increased contributions. To mitigate the City's fiscal shortfall, in 2010 the City negotiated with
21 City unions to achieve a 10% reduction in total compensation for the purpose of reducing the
22 potentially significant service reduction and layoffs of City employees required to balance the City
23 budget.

24 17. In 2010, a coalition of City unions proposed that the City achieve this
25 compensation reduction by employees making an "additional" pension contribution to defray the
26 City's required pension contributions. This coalition consisted of AEA, ABMEI, AMSP, CAMP,
27 IBEW and OE#3 ("Coalition"). (Plaintiffs in the *Mukhar* case are members and/or former
28 members of AEA and AMSP [Plaintiff Mukhar is president of AEA, plaintiff Dapp is president of

1 AMSP], and plaintiffs in the *Harris* case are members and/or former members of OE#3.)

2 18. The SJPOA and IAFF also offered proposals to achieve compensation reduction via
3 employees making an "additional" pension contribution to defray the City's required pension
4 contributions. (The SJPOA is plaintiff in the *SJPOA* case; plaintiffs in the *Sapien* case are
5 members and/or former members of IAFF.)

6 19. The Coalition unions took the position that the additional employee retirement
7 contribution of 10% could be authorized by an amendment to the Municipal Code and did not
8 violate the City Charter. An initial proposal received from the Coalition stated:

9 5.1.2. Additional Retirement Contribution.

10 Effective June 27, 2010 through June 28, 2011, all employees will
11 make additional retirement contributions in an amount equivalent to
12 10% of total compensation effective June 27, 2010. The amounts so
13 contributed will be applied to subsidize and thus reduce the prior
14 service contributions that the City would otherwise be required to
15 make. The parties specifically understand that this agreement
16 neither alters nor conflicts with the City Charter Section 1505(c)
17 because under this agreement, employees will be subsidizing the
18 City's Section 1505(c) required contribution. This employee
19 retirement contribution is in addition to and apart from the employee
20 retirement contribution rates established and approved by the
21 Federated City Employees' Retirement System Board. This
22 additional employee contribution shall be reduced by half (50%)
23 effective the first payroll period for Fiscal Year 2012.

24 * * * *

25 In order to implement this provision, the City may be required to
26 amend the Federated City Employees' Retirement System by
27 adopting an ordinance amending the San Jose Municipal Code.
28 These contributions shall be treated in the same manner as any other
employee contributions. Accordingly, these additional employee
contributions will be made on a pre-tax basis through payroll
deductions pursuant to IRS Code Section 414(h)(2) and will be
subject to withdrawal, return and redeposit in the same manner as
any other employee contributions.

29 A true and correct copy of the Coalition proposal provided to the City, dated 6/18/10, 4:25
30 p.m., is attached as Exhibit 2. True and correct copies of additional union proposals by Coalition
31 members and by the SJPOA and IAFF to pay an increased employee contribution rate are attached
32 as Exhibits 3 thru 6.

1 20. During the negotiations over the payment of the additional pension contributions,
2 representatives of the Coalition unions and the City, including myself, discussed the legality of the
3 additional contributions under the City Charter. Under the City Charter, the contribution rate to
4 pay for "current service or current service benefits" may not exceed the ratio of 3 for employees to
5 8 for the City, but the contribution rate to pay for "prior service or prior service benefits" is not
6 subject to any ratio. The Coalition unions took the position that the additional retirement
7 contributions for unfunded liabilities were to pay for "prior service" which is not subject to the 3
8 to 8 ratio under the Charter. Thus, the unions took the position that the employees could pay the
9 entire pension contribution required for the unfunded liabilities.

10 21. In a letter dated June 17, 2010, the Coalition unions transmitted copies of their
11 proposal to make the additional pension contributions to the Mayor and City Council. A true and
12 correct copy of the letter and attached agreements that we received is attached as Exhibit 7.

13 22. During the City Council hearing on the proposal for employees to make additional
14 pension contributions, Christopher Platten, an attorney representing members of the Coalition,
15 stated the position of his clients that the City Charter was not a barrier to employees paying the
16 increased contribution rates. A transcript of his comments are attached as Exhibit 8.

17 23. For the three year period, 2010, 2011 and 2012, the union Agreements or Last Best
18 and Final Offers, with authorizing resolutions, are attached as Exhibits 9 thru 34 in alphabetical
19 order by union. The memoranda from myself and other City employees in connection with the
20 City resolutions contained in Exhibits 9 thru 34 were made by and within the scope of the
21 employees' public duties, were made at or near the time of the act, condition or event described in
22 the memoranda, and reflect information from City financial and collective bargaining records.

23 24. During fiscal year 2010-2011, the following six unions agreed that their members
24 would pay additional employee pension contributions, both ongoing and one-time, as well as a
25 one-time base pay reduction, equivalent to approximately 10% of total compensation, except the
26 POA agreed that its members would pay 5.25% in additional employee pension contributions on a
27 one-time basis. The additional contributions and pay reductions were to be used to defray pension
28 plan unfunded liabilities.

- Association of Engineers and Architects (AEA) (plaintiff Mukhar, lead plaintiff in the *Mukhar* case, is president of the union). [Exhibit 11]
- Association of Maintenance Supervisory Personnel (AMSP) (plaintiff Dapp, a plaintiff in the *Mukhar* case, is president of the union). [Exhibit 15]
- City Association of Management Personnel (CAMP). [Exhibit 17]
- International Brotherhood of Electrical Workers, Local 332 (IBEW). [Exhibit 23]
- Operating Engineers, Local No. 3 (OE#3) (which represents plaintiffs in the *Harris* case). [Exhibit 25]
- San Jose Police Officers' Association (SJPOA) (plaintiff in the *SJPOA* case). [Exhibit 29]

True and correct copies of the Agreements, and authorizing resolutions are attached as indicated above next to each union.

25. The following unions or groups agreed to a wage reduction rather than paying additional employee pension contribution rates, or the City imposed a wage reduction in the form of a Last Best and Final Offer or by resolution:

- Association of Building, Mechanical and Electrical Inspectors (ABMEI). [Exhibit 9]
- Association of Legal Professionals (ALP). [Exhibit 13]
- Executive Management and Professional Employees (Unit 99). [Exhibits 32, 33]
- Other Unclassified Non-Management Employees (Units 81 and 82). [Exhibit 32, 33]

True and correct copies of these Agreements or Last Best and Final Offers, and authorizing resolutions, are attached as indicated above next to each union.

26. Only three bargaining units did not come to an agreement with the City during 2010-2011. The International Association of Firefighters (IAFF), Local 230), which represents plaintiffs in the *Sapien* case) had a Memorandum of Agreement (MOA) that expired in 2009, did

1 not come to any agreement with the City during 2010-2011, but came to an agreement with the
2 City in 2011 to take an approximate ongoing 10% wage reduction. (Exhibit 21) Confidential
3 Employees' Organization (CEO), AFSCME Local 101 (Exhibit 20) and Municipal Employees'
4 Federation (MEF), AFSCME Local No. 101 (represented by plaintiff in the *AFSCME* case)
5 (Exhibit 28) had a closed contract in 2010-2011, but in 2011-2012 the City imposed an
6 approximate 12% wage reduction as part of the City's Last, Best and Final Offer. True and
7 correct copies of these Agreements or Last Best and Final Offers, with authorizing resolutions, are
8 attached as Exhibits 20, 21, and 28.

9 27. The union agreements to pay additional employee pension contributions contained
10 substantially similar provisions. For example, the 2010-2011 MOA between the City and the
11 Association of Engineers and Architects (AEA Unit 43), of which plaintiff Mukhar is the
12 president, states at Section 10.1.1:

13 On-Going Additional Retirement Contributions. Effective June 27,
14 2010, all employees who are members of the Federated City
15 Employees' Retirement System will make additional retirement
16 contributions in the amount of 7.30% of pensionable compensation,
17 and the amounts so contributed will be applied to **reduce the**
18 **contributions that the City would otherwise be required to make**
19 **for the pension unfunded liability**, which is defined as all costs in
20 both the regular retirement fund and the cost-of-living fund, except
21 current service normal costs in those funds. This additional
22 employee retirement contribution would be in addition to the
23 employee retirement contribution rates that have been approved by
24 the Federated City Employees' Retirement System Board. **The**
25 **intent of this additional retirement contribution by employees is**
26 **to reduce the City's required pension retirement contribution**
27 **rate by a commensurate 7.30% of pensionable compensation, as**
28 **illustrated below . . . ":** [Emphasis added]

22 In addition, the union agreed to an additional one-time additional pension contribution "in
23 the amount of 3.53% of pensionable compensation, and the amounts so **contributed will be**
24 **applied to reduce the contributions that the City would otherwise be required to make**
25 **during that time period for the pension unfunded liability...."** (Section 10.1.2) [Emphasis
26 added]

27 28. The unions also agreed to the City amending the Municipal Code to provide for the
28 payment by employees of these "additional contributions." The AEA agreement stated: "The

1 parties understand that in order to implement this provision, an amendment must be made to the
2 Federated City Employees' Retirement System that requires an ordinance amending the San Jose
3 Municipal Code." (Exh. 11 at Section 10.1.4.) The POA agreement stated: "The parties
4 understand that in order to implement this provision, an amendment must be made to the Police &
5 Fire Department Retirement Plan that requires an ordinance amending the San Jose Municipal
6 Code." (Exh. 29 at p. 3 of POA's Memorandum of Agreement.) See Exhibits 11, 15, 17, 23, 25,
7 and 29.

8 29. As agreed with the unions, the City amended the Municipal Code provisions for
9 both the Federated Plan and Police and Fire Plans to authorize payment by employees of
10 additional pension contributions and provide that these contributions could be used to offset the
11 City's pension contributions. (See Municipal Code 3.28.775, 3.28.955 [Federated], 3.36.1525
12 [Police and Fire].)

13 30. Most of the additional employee contributions and/or wage reductions for fiscal
14 year 2010-2011 equaled approximately 10% of employee total compensation. In the following
15 two fiscal years, 2011-2012 and 2012-2013, the unions that had agreed to the additional employee
16 contributions agreed to take the 10% reduction in total compensation as a straight wage reduction,
17 and other unions agreed to take or continue to take wage reductions. For those unions that did not
18 agree, the City imposed a wage reduction as part of the City's Last, Best and Final Offer. True and
19 correct copies are attached as Exhibits 10, 12, 14, 16, 18, 20, 22, 24, 26, 28, 30, 31, and 34.

20 31. During negotiations over compensation, the City and its employee unions have
21 treated increased employee pension contribution rates as interchangeable with wage decreases.
22 Both are elements that reduce "Total Compensation," which is the total cost to the City of pay and
23 benefits, including base pay, retirement contributions, health insurance, and other benefits.
24 Increased employee pension contributions have some advantages over wages for employees. The
25 deductions are made pre-tax and are credited to the employee's retirement account, which means
26 that if the employee leaves employment with the City, the employee has the option of taking the
27 balance of the retirement account. During the later negotiations, the City received an e-mail from
28 a union representative making these points. A true and correct copy is attached as Exhibit 35.

Employee Contributions Towards Retiree Healthcare

32. Measure B requires that: "Existing and new employees must contribute a minimum of 50% of the cost of retiree healthcare, including both normal cost and unfunded liabilities." (Section 1512-A: Retiree Healthcare.)

33. Under the Municipal Code, the City's retirement plans subsidize retiree health care premiums for eligible retirees who have 15 or more years of service with the City. The retirement plans pay 100% of the premium for the lowest cost plan, offered by the City, for either single or family coverage. Payments for retiree medical premiums are made from a retirement system medical benefits fund, or a trust fund, which are accounted for separately from the pension funds.

34. In the case of both the Federated and the Police and Fire Retirement Plans, the Municipal Code requires that employees and the City make contributions towards retiree medical benefits on a one to one ratio. (Municipal Code 3.28.385(C); 3.36.575(D).)

35. Contribution rates for retiree healthcare benefits, which are separate from pension contribution rates, are established by the independent retirement boards based on data from the board's actuary. Historically, the contributions from employees and the City did not fully prefund the cost of employee retiree healthcare benefits. In 2007, the City began to address the new GASB reporting standards that required state and local governments to disclose the full cost of "unfunded actuarial liabilities" for "Other Post-Employment Benefits" ("OPEB") such as retiree healthcare.

36. Actuarial studies reported the City's unfunded liability for retiree health care to be as high as \$1.65 billion, if it did not prefund the health care costs, and \$1.14 billion if it fully prefunded the costs. Attached as Exhibit 36 is a true and correct copy of a Memorandum dated July 24, 2007, from myself and others to Mayor and City Council, regarding "Retiree Healthcare." The memorandum attaches true and correct copies of reports received by the City from two actuaries: Report from Bartel Associates, LLC, re "Retiree Healthcare Plan, June 30, 2007, Federated City Employees"; Letter from Segal Company, dated January 12, 2007, Re Police and Fire Plan GASB Results. True and correct copies of the reports are attached as Exhibits 37 and 38.

37. After receipt of these reports, the City Council directed City staff to begin

1 negotiations with City unions over contributions towards payment of the full "Annual Required
2 Contribution" ("ARC") - the contribution needed on an annual basis in order to cover the
3 estimated costs of the retiree health care benefit for current and future retirees. The ARC is
4 expressed as both a dollar amount and as a percentage of payroll.

5 38. Beginning in 2009, the City reached agreement with most City unions for
6 employees and the City to continue paying the cost of retiree healthcare on a one-to-one ratio, and
7 to phase in additional employee and City contributions, in the same ratio, to eventually fully fund
8 the ARC.

9 39. The City reached agreements with the following unions:

- 10 • Association of Building, Mechanical and Electrical Inspectors (ABMEI);
- 11 • Association of Engineers and Architects, IFPTE Local 21 (AEA Units 41/42
12 and 43) (plaintiff Mukhar, lead plaintiff in the *Mukhar* case, is president of the
13 union);
- 14 • Association of Maintenance Supervisory Personnel, IFPTE Local 21 (AMSP)
(plaintiff Dapp, a plaintiff in the *Mukhar* case, is president of the union);
- 15 • City Association of Management Personnel, IFPTE Local 21 (CAMP);
- 16 • International Brotherhood of Electrical Workers, Local No. 332 (IBEW);
- 17 • Municipal Employees' Federation, AFSCME Local 101 (MEF) (plaintiff in the
18 *AFSCME* case);
- 19 • Confidential Employees' Organization, AFSCME Local 101 (CEO);
- 20 • San Jose Police Officers' Association (plaintiff in the *SJPOA* case); and
- 21 • International Association of Firefighters (IAFF), Local 230 (representative for
22 employee plaintiffs in the *Sapien* case); the agreement with IAFF was reached
23 in 2011 and the City and employees represented by IAFF began to phase in
24 additional retiree healthcare contributions starting in 2011.

25 True and correct copies of these Agreements and authorizing resolutions with unions are
26 attached as Exhibits 39 (agreement covering ABMEI, AEA, AMSP, CAMP, IBEW, MEF, and
27 CEO), 40 (resolution approving agreement), 41 (resolution and agreement covering POA), and 21
28 (resolution and agreement covering IAFF).

1 40. A typical agreement with the Federated unions stated:

2 The City and the Employee Organization agree to transition from
3 the current partial pre-funding of retiree medical and dental
4 healthcare benefits (referred to as the "policy method") to pre-
5 funding of the full Annual Required Contribution (ARC) for the
6 retiree healthcare plan ("Plan"). The transition shall be
7 accomplished by phasing into fully funding the ARC over a period
8 of five (5) years beginning June 28, 2009. The Plan's initial
9 unfunded retiree healthcare liability shall be fully amortized over a
10 thirty year period so that it shall be paid by June 30, 2039 (closed
11 amortization).The City and Plan members (active employees)
12 shall contribute to funding the ARC in the ratio currently provided
13 under Section 3.28.380(C)(1) and (3) of the San Jose Municipal
14 Code. Specifically, contributions for retiree medical benefits shall
15 be made by the City and members in the ratio of one-to-one. . . .

16 (Exh. 39, AEA, MOA, Section 12.1)

17 41. The payments of the full ARC were to be phased in incrementally but: "[B]y the
18 end of the five year phase-in, the City and plan members shall be contributing the full Annual
19 Required Contribution in the ratio currently provided under Section 3.28.380 (C) (I) and (3) of the
20 San Jose Municipal Code." (Exh. 39, AEA, MOA, Section 12.3)

21 42. The unions also agreed that amendments to the Municipal Code in accordance with
22 this agreement were to be made and that "(t)he City and the Employee Organization further agree
23 that the Municipal Code and/or applicable plan documents shall be amended in accordance with
24 the above agreement and that the Employee Organization will support such amendments." (Exh.
25 39, AEA, MOA, Section 12.2.)

26 43. This or similar language was agreed to by all Federated unions that are plaintiffs in
27 these consolidated actions or who represent individuals who are plaintiffs in these consolidated
28 actions, with the exception of the Operating Engineers (OE#3), which represents the *Harris*
29 plaintiffs. The City imposed these terms on OE#3 as part of the City's Last, Best and Final Offer.
30 True and correct copies of the Last, Best and Final Offer, and authorizing resolutions, are attached
31 as Exhibits 42 and 43.

32 44. The SJPOA and IAFF also agreed to pay towards the full ARC, but with some
33 additional provisions. Their respective agreements cap the contribution towards paying the full
34 ARC at 10% of pensionable pay for employees and provide for meet and confer and dispute
35 resolution procedures for amounts over that percentage. True and correct copies of those

1 Agreements, and authorizing resolutions are attached as Exhibits 41 (POA) and 21 (IAFF).

2 45. The memoranda from myself and other City employees concerning retiree
3 healthcare benefits and the memoranda concerning or attached to the City's authorizing
4 resolutions, Exhibits 36 thru 43 and 21, were made by and within the scope of the employees'
5 public duties, were made at or near the time of the act, condition or event described in the
6 memoranda, and reflect information from City financial and collective bargaining records.

7 **Supplemental Retiree Benefit Reserve**

8 46. Measure B states, "The Supplemental Retiree Benefit Reserve ("SRBR") shall be
9 discontinued, and the assets returned to the appropriate retirement trust fund. Any supplemental
10 payments to retirees in addition to the benefits authorized herein shall not be funded from plan
11 assets." (Measure B, § 1511-A.)

12 47. Under the Municipal Code, the Supplemental Retiree Benefit Reserve ("SRBR")
13 was a feature of both the Federated and Police and Fire retirement plans. The SRBR provided
14 retirees with a so-called "13th check" on top of their other existing pension benefits (a monthly
15 pension; a retirement healthcare premium subsidy; and a 3% yearly COLA.)

16 48. Employee pension contribution rates to the retirement systems have not included
17 any amounts specifically attributable to the SRBR.

18 49. Beginning in 2009, the retirement funds began to experience significant increases
19 in unfunded liabilities. The large unfunded liabilities resulted in an anomaly. Although the
20 retirement systems had large unfunded liabilities, they earned enough in a particular year to have
21 "excess earnings" for the year – as defined in the Municipal Code – to fund the SRBR. And under
22 the resolutions that established the methods for distribution to retirees, the SRBR in turn had
23 sufficient funds to make supplemental distributions to retirees.

24 50. Attached as Exhibit 44 is a true and correct copy of a Memorandum dated October
25 22, 2010, from Debra Figone, City Manager to Honorable Mayor and City Council re "Suspension
26 of SRBR Payments."

27 51. Attached as Exhibit 45 is a true and correct copy of a Memorandum dated May 13,
28 2011 from Debra Figone, City Manager to Honorable Mayor and City Council re "Continued

1 Suspension of SRBR Payments.”

2 52. Attached as Exhibits 46 thru 48 are true and correct copies of a Memorandum dated
3 April 9, 2012, from Debra Figone, City Manager to Honorable Mayor and City Council re
4 “Suspension of SRBR Payments” at pp. 4-5 (Exhibit 46); Letter dated January 13, 2012 from
5 Cheiron re Federated Plan Supplemental Retiree Benefit Reserve as of June 30, 2011 (Exhibit 47);
6 Letter dated March 29, 2012 from Cheiron re Police and Fire Retirement Plan Supplemental
7 Retiree Benefit Reserve as of June 30, 2011. (Exhibit 48)

8 53. In the memoranda to the City Council, the City Manager recommended suspension
9 of SRBR distributions due to “the plans’ significant unfunded liabilities.” The memoranda
10 attached as Exhibits 44 thru 48 were made by and within the scope of the employees’ public
11 duties, were made at or near the time of the act, condition or event described in the memoranda,
12 and contain information obtained from City financial records.

13 54. Beginning in 2010, City Council enacted resolutions to suspend distribution of
14 Federated SRBR funds for the fiscal years 2010-2011, 2011-2012, and 2012-2013. Beginning in
15 2010, the Council enacted ordinances to suspend distribution of Police and Fire Plan SRBR funds
16 for the same fiscal years.

17 55. In 2011, a number of City unions either made proposals or entered into tentative
18 agreements for the elimination of the SRBR in part or in whole. Attached as Exhibits 49 thru 53
19 Tentative Agreements with ABMEI (Exhibit 49), IBEW (Exhibit 50), OE#3 (Exhibit 51), CEO
20 (Exhibit 52), and MEF (Exhibit 53), to eliminate SRBR completely.

21 56. After the enactment of Measure B, the City Council enacted Ordinance Number
22 29174 amending the Municipal Code to terminate the Federated SRBR and return its funds to the
23 general retirement fund. The ordinance became effective on January 4, 2013. A true and correct
24 copy of the Ordinance is attached as Exhibit 54. The City Council also enacted an ordinance
25 amending the Municipal Code to terminate the Police and Fire SRBR and return its funds to the
26 general retirement fund. The ordinance was enacted on January 29, 2013, and will become
27 effective on March 1, 2013. A true and correct copy of this ordinance is attached as Exhibit 55.

28

Retirement System Actuarial Reports

57. The two City retirement systems, and sometimes the City itself, obtain actuarial reports concerning retirement system funds, liabilities and contribution rates to the systems for the City and employees. Attached as Exhibits 56 thru 61 are true and correct copies of the following reports received from system actuaries.

Cheiron, February 8, 2012, Letter to Board of Administration re 5-Year Budget Projections for Federated. [Exhibit 56]

Cheiron, February 21, 2012, Letter to Director of Retirement Services, Police & Fire Department Retirement Plan re 5-Year Budget Projections for Police & Fire. [Exhibit 57]

Cheiron, December 2012, Federated City Employees' Retirement System, June 30, 2012 Actuarial Valuation. [Exhibit 58]

Cheiron, December 2012, City of San Jose Police and Fire Department Retirement Plan, June 30, 2012 Actuarial Valuation. [Exhibit 59]

Cheiron, January 17, 2013, San Jose Federated City Employees' Retirement System, June 30, 2012 OPEB Actuarial Valuation Results. [Exhibit 60]

Cheiron, February 7, 2013, City of San Jose Police and Fire Department Retirement System, June 30, 2012 OPEB Actuarial Valuation Results. [Exhibit 61]

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that I executed this declaration on February 7th, 2013 in SAN JOSE, California.



Alex Gurza

2046124.1

**TABLE OF CONTENTS OF EXHIBITS
TO DECLARATION OF ALEX GURZA**

EXH. NO.	DESCRIPTION
<u>VOLUME 1</u>	
1	City Auditor's Report, "Pension Sustainability: Rising Pension Costs Threaten The City's Ability To Maintain Service Levels – Alternatives For A Sustainable Future" – September 2010
2	Coalition of Union proposal offered to City – June 18, 2010 (4:25 p.m.)
3	OE#3 Union Proposals to City to pay increased employee contribution rate
4	IBEW Union Proposal to City to pay increased employee contribution rate – May 14, 2010
5	SJ POA Union Proposals to City to pay increased employee contribution rate – May 17, 2010 and June 21, 2010
6	IAFF Letter and Proposal to City to pay increased employee contribution rate – June 9, 2010
7	Coalition of Unions agreement to make additional pension contributions – June 17, 2010
8	Transcript of Christopher Platten's comments to City Council – June 17, 2010
<u>VOLUME 2</u>	
9	Association of Building, Mechanical and Electrical Inspectors (ABMEI) – Resolution No. 75362 approving and terms of Last, Best and Final Offer, effective June 27, 2010
10	ABMEI – Resolution No. 75810 approving and terms of MOA (7/1/11 – 6/30/13)
11	Association of Engineers and Architects (AEA) – Resolution No. 75451 approving and terms of MOA (7/1/10 – 6/30/11)
12	AEA – Resolution No. 75777 approving and terms of MOA (7/1/11 – 6/30/13)
13	Association of Legal Professionals (ALP) – Resolution No. 75419 approving and terms of Agreement (7/1/10 – 6/30/11)
14	ALP – Resolution No. 75813 approving and terms of Agreement (7/1/11 – 6/30/12)
15	Association of Maintenance Supervisory Personnel (AMSP) – Resolution No. 75452 approving and terms of Agreement (7/1/10 – 6/30/11)
16	AMSP – Resolution No. 75778 approving and terms of Agreement (7/1/11 –

1		6/30/13)
2	17	City Association of Management Personnel (CAMP) – Resolution No. 75449 approving and terms of Agreement (7/1/10 – 6/30/11)
3	18	CAMP – Resolution No. 75779 approving and terms of Agreement (7/1/11 – 6/30/13)
4	19	Confidential Employees' Organization (CEO), AFSCME Local 101 – Resolution No. 74635 approving and terms of MOA (9/21/08 – 9/17/11)
5	20	CEO – Resolution No. 75815 approving and terms of Last, Best and Final Offer (9/18/11 – 9/15/12)
6	21	International Association of Firefighters (IAFF) – Resolution No. 75762 approving and terms of Agreement (7/1/09 – 6/30/13)
7	22	IAFF – Resolution No. 75762 approving and terms of Agreement (7/1/09 – 6/30/13)
8	23	International Brotherhood of Electrical Workers, Local 332 (IBEW) – Resolution No. 75450 approving and terms of Agreement (7/1/10 – 6/30/11)
9	24	IBEW – Resolution No. 75811 approving and terms of Last, Best and Final Offer (7/1/11 – 6/30/12)
10	25	Operating Engineers, Local No. 3 (OE#3) – Resolution No. 75453 approving and terms of Agreement (7/1/10 – 6/30/11)
11	26	OE#3 – Resolution No. 75812 approving and terms of Last, Best and Final Offer (7/1/11 – 6/30/12)
12	27	Municipal Employees' Federation (MEF), AFSCME Local 101 – Resolution No. 74525 approving and terms of MOA (7/1/08 – 6/30/11)
13	28	MEF – Resolution No. 75814 approving and terms of Last, Best and Final Offer (7/1/11 – 6/30/12)
14	29	San Jose Police Officers' Association (SJPOA) – Resolution No. 75507 approving and terms of MOA (7/1/10 – 6/30/11)
15	30	SJPOA – Resolution No. 75846 approving and terms of Agreement (7/1/11 – 6/30/12)
16	31	SJPOA – Resolution No. 76118 approving and terms of Agreement (7/1/11 – 6/30/13)
17	32	Executive Management and Professional Employees (Unit 99) and Other Unclassified Non-Management Employees (Units 81 and 82) – Resolution No. 75363 approving Resolution for 4.75% salary reduction, effective June 27, 2010.
18		

33	Executive Management and Professional Employees (Unit 99) and Other Unclassified Non-Management Employees (Units 81 and 82) – Resolution No. 75436 approving Resolution for 5.4% salary reduction, effective June 27, 2010.
34	Executive Management and Professional Employees (Unit 99) and Other Unclassified Non-Management Employees (Units 81 and 82) – Resolution No. 75780 approving Agreement for 4.75% and 5.4% salary reductions, effective June 26, 2011.
<u>VOLUME 3</u>	
35	E-mail from union representative Nancy Ostrowski (IPFTE Local 21) – March 7, 2011
36	Memorandum from Alex Gurza to Mayor and City Council re “Retiree Healthcare” – July 24, 2007
37	Report from Bartel Associates, LLC, re “Retiree Healthcare Plan, June 30, 2007 Actuarial Valuation, Federated City Employees”
38	Letter from Segal Company re “City of San Jose Police and Fire Department Medical and Dental Insurance Plan, GASB Statements No. 43 and No. 45 Results Using Requested Assumptions” – January 12, 2007
39	Memorandum from Alex Gurza to Mayor and City Council dated April 7, 2009 re Agreements covering ABMEI, AEA, AMSP, CAMP, IBEW, MEF, and CEO re Retiree Healthcare Funding
40	Resolution No. 74882 approving Agreements between City and ABMEI, AEA, AMSP, CAMP, IBEW, MEF, and CEO re Retiree Healthcare Funding
41	Resolution No. 74803 approving and terms of Agreement between City and SJPOA re Retiree Healthcare Funding
42	Last, Best and Final Offer from City to OE#3 – June 1, 2009
43	Resolution No. 74988 approving Last, Best and Final Offer from City to OE#3, effective June 28, 2009
44	Memorandum from Debra Figone to Mayor and City Council re “Suspension of SRBR Payments” – October 22, 2010
45	Memorandum from Debra Figone to Mayor and City Council re “Continued Suspension of SRBR Payments” – May 13, 2011
46	Memorandum from Debra Figone to Mayor and City Council re “Suspension of SRBR Payments” – April 9, 2012
47	Letter from Cheiron re “Federated Employees Retirement Plan, Supplemental Retiree Benefit Reserve as of June 30, 2011” - January 13, 2012

48	Letter from Cheiron re "City of San Jose Police and Fire Department Retirement Plan, Supplemental Retiree Benefit Reserve as of June 30, 2011" - March 29, 2012
49	Tentative Agreement with ABMEI re SRBR
50	Tentative Agreement with IBEW re SRBR
51	Tentative Agreement with OE#3 re SRBR
52	Tentative Agreement with CEO re SRBR
53	Tentative Agreement with MEF re SRBR
54	Ordinance No. 29174 amending the Municipal Code to terminate the Federated SRBR and return its funds to the general retirement fund, effective January 4, 2013
55	Ordinance amending the Municipal Code to terminate the Police and Fire SRBR and return its funds to the general retirement fund, enacted on January 29, 2013, and to become effective on March 1, 2013
56	Cheiron Letter to Board of Administration re 5-Year Budget Projections for Federated - February 8, 2012
57	Cheiron Letter to Director of Retirement Services, Police & Fire Department Retirement Plan re 5-Year Budget Projections for Police & Fire - February 21, 2012
58	Cheiron's Actuarial Valuation re Federated City Employees' Retirement System, June 30, 2012 - December 2012
59	Cheiron's Actuarial Valuation re City of San Jose Police and Fire Department Retirement Plan, June 30, 2012 - December 2012
60	Cheiron's OPEB Actuarial Valuation Results re San Jose Federated City Employees' Retirement System, June 30, 2012 - January 17, 2013
61	Cheiron's OPEB Actuarial Valuation Results re City of San Jose Police and Fire Department Retirement System, June 30, 2012 - February 7, 2013

EXHIBIT 9

RESOLUTION NO 75362

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE
APPROVING IMPLEMENTATION OF THE TERMS CONTAINED
IN THE CITY'S LAST, BEST, AND FINAL OFFER TO THE
ASSOCIATION OF BUILDING, MECHANICAL AND ELECTRICAL
INSPECTORS, EFFECTIVE JUNE 27, 2010

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SAN JOSE:

1. That the implementation of the City of San José's Last, Best and Final Offer to the Association of Building, Mechanical and Electrical Inspectors is hereby approved. The City Manager is hereby authorized to implement the City of San José's Last, Best and Final Offer to the Association of Building, Mechanical and Electrical Inspectors, effective June 27, 2010.
2. The terms of the City of San José's Last, Best and Final Offer to the Association of Building, Mechanical and Electrical Inspectors are set out and described in the memorandum to the Mayor and City Council from the Director of Employee Relations, dated April 13, 2010, attached hereto as Attachment A, and incorporated in this Resolution.

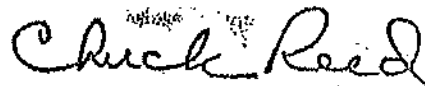
ADOPTED this 27th day of April, 2010, by the following vote:

AYES: CHIRCO, CONSTANT, HERRERA, LICCARDO,
OLIVERIO, PYLE, REED.

NOES: CAMPOS, CHU, KALRA, NGUYEN.

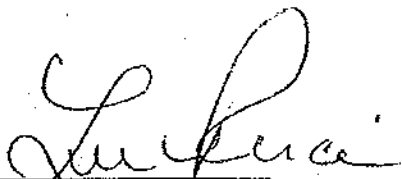
ABSENT: NONE.

DISQUALIFIED: NONE.



CHUCK REED
Mayor

ATTEST:



LEE PRICE, MMC
City Clerk



COUNCIL AGENDA: 04/27/10
ITEM: 3.2

Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Alex Gurza

SUBJECT: SEE BELOW

DATE: April 13, 2010

Approved

Date

4/13/10

SUBJECT: APPROVAL OF IMPLEMENTATION OF TERMS CONTAINED IN THE
CITY'S LAST, BEST AND FINAL OFFER TO THE ASSOCIATION OF
BUILDING, MECHANICAL AND ELECTRICAL INSPECTORS (ABMEI)

COUNCIL DISTRICT: N/A
SNI AREA: N/A

RECOMMENDATION

Adoption of a resolution approving the implementation of the terms of the City's Last, Best and Final Offer for employees represented by the Association of Building, Mechanical and Electrical Inspectors (ABMEI), effective June 27, 2010.

OUTCOME

Adoption of the resolution and authorization to implement the terms contained in the City's Last, Best and Final Offer for employees represented by ABMEI, effective June 27, 2010.
Implementation of terms does not result in implementation of a Memorandum of Agreement (MOA).

BACKGROUND

In November 2009, the City Council in open session approved a goal of reducing the total ongoing employee compensation by 5%. The City of San Jose had a labor contract with the Association of Building, Mechanical and Electrical Inspectors (ABMEI), which expired December 10, 2009, making ABMEI's the first contract to open for successor agreement negotiations after the goal was established.

ABMEI currently represents approximately 50 full time positions. This unit includes employees such as Building Inspectors and Supervising Building Inspectors.

The City and ABMEI have been in negotiations for a successor agreement since November of 2009, and have met approximately 17 times. The parties reached impasse on January 5, 2010, and began the impasse procedures under Employee-Employer Relations Resolution No. 39367,

HONORABLE MAYOR AND CITY COUNCIL

April 13, 2010

Subject: Approval of Implementation of Last, Best and Final Offer for ABMEI

Page 2 of 5

which is engaging in mediation. The parties engaged in the mediation process over the course of three days, ending February 10, 2010. Unfortunately, the parties were unable to reach agreement.

The City provided ABMEI with its Last, Best and Final Offer on March 8, 2010, which is attached.

Despite the dedication and of time and effort into these negotiations, the City and ABMEI were unable to reach agreement. Pursuant to the Meyers-Millas-Brown Act under California Government Code Section 3505.4, if after meeting and conferring in good faith, an impasse has been reached between the public agency and the recognized employee organization, and impasse procedures, where applicable, have been exhausted, a public agency that is not required to proceed to interest arbitration may implement its last, best and final offer, but shall not implement a memorandum of understanding.

ABMEI informed the City on April 1, 2010, that its membership has rejected the City's Last, Best and Final Offer. ABMEI has been notified that this item was being placed on the Council Agenda for implementation of the terms contained in the City's Last, Best and Final Offer for employees represented by ABMEI.

ANALYSIS

The following is a summary of the terms contained in the City's Last, Best and Final Offer that would be implemented for employees represented by ABMEI:

Wages	Reduce current base pay by approximately 4.65% effective June 27, 2010.
Freezing of Step/Merit Increases	Each year, employees who are not already at top step are eligible to receive a 5.00% step increase during each fiscal year until the employee reaches top step. Effective June 27, 2010, all ABMEI represented employees will have step and merit increases frozen for 26 pay periods. After 26 pay periods, employees represented by ABMEI will become eligible for step increases upon completion of an additional 2080 seniority hours after the date they did not receive a step increase for which they were previously eligible.
Healthcare Cost Sharing	Currently, the City pays ninety (90%) of the full premium cost of the lowest cost plan for employee or for employee and dependent coverage, and the employee pays ten (10%). Effective June 27, 2010, the City will pay eighty five percent (85%) of the full premium cost of the lowest cost plan for employee or for employee and dependent coverage, and the employee will pay fifteen (15%) of the premium for the lowest priced plan for employee or employee and dependent coverage.

HONORABLE MAYOR AND CITY COUNCIL

75362

April 13, 2010

Subject: Approval of Implementation of Last, Best and Final Offer for ABMER

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**Healthcare
HMO Plan Design** The current HMO Plan Design provides for \$10 office visit co-pay, \$5 generic and \$10 brand name prescription co-pays, and a \$50 emergency room co-pay.

Effective July 1, 2010, co-pays for all available HMO plans shall be as follows:

- a. \$25 office visit co-pay
- b. \$10 generic/\$25 brand name prescription co-pay
- c. \$100 emergency room co-pay
- d. \$100 inpatient/outpatient procedure co-pay

**Healthcare
Dual Coverage** Effective July 1, 2010, employees may no longer be simultaneously covered by City-provided medical and/or dental benefits as a City employee and as a dependent of another City employee.

**Healthcare
Payment-In-Lieu** Currently, employees who have other health and/or dental coverage are eligible for a health-in-lieu and/or dental-in-lieu amount of 50% of the City's premium. This results in a formula that increases as the City's costs towards healthcare increases. The current in-lieu amounts are as follows:

	<u>Health In-Lieu</u>	<u>Dental In-Lieu</u>
If eligible for family coverage:	250.31	24.44
If NOT eligible for family coverage:	100.54	24.44

Effective June 27, 2010, employees who qualify for and participate in payment-in-lieu of health and/or dental insurance program will receive the following per pay period:

	<u>Health In-Lieu</u>	<u>Dental In-Lieu</u>
If eligible for family coverage:	221.84	19.95
If NOT eligible for family coverage:	89.09	19.95

A City employee who receives healthcare coverage as a dependent of another City employee shall be deemed NOT eligible for family coverage.

This changes the current formula from a percentage to a fixed dollar amount and will reduce the increases in the health in-lieu program in the future.

**Disability Leave
Supplement** Reduce maximum supplemental pay benefit from nine (9) calendar months (1560 hours) to six (6) calendar months (1040 hours).

HONORABLE MAYOR AND CITY COUNCIL

April 13, 2010

Subject: Approval of Implementation of Last, Best and Final Offer for ABMEI

Page 4 of 5

- Sick leave Payout** Effective June 27, 2010, modify calculation of payout from a maximum of 75% of final hourly rate for accruals between 800 and 1200 hours, to a maximum of 60% of final hourly rate for accruals between 400 and 1200 hours for current employees. Distribution of payouts for employees who retire before June 27, 2010, shall be made no later than February 1, 2011. For employees hired on or after June 28, 2010, modify calculation of payout to a maximum of 750 hours at 25% of final hourly rate. Employees who do not retire directly from active City service will no longer be eligible for this benefit.
- Retirement Cost Mitigation** ABMEI shall commence meeting and conferring on retiree healthcare benefits for future employees, a medical reimbursement program for future retirees, and pension benefit/costs for current and future employees within 15 calendar days after the City provides notification to ABMEI.
- Overtime** Employees who work in excess of 40 hours per work week shall be compensated at the rate of time and one-half (1.5) the employee's hourly rate.
- Side Letter Agreements** The Reduced Work Week side letter will expire June 27, 2010. All other side letters expired with the expiration of the 2007-2009 MOA on December 10, 2009.

EVALUATION AND FOLLOW-UP

Staff does not anticipate any follow-up actions necessary at this time.

PUBLIC OUTREACH/INTEREST

- ☐ **Criteria 1:** Requires Council action on the use of public funds equal to \$1 million or greater. (Required: Website Posting)
- ☒ **Criteria 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. (Required: E-mail and Website Posting)
- ☐ **Criteria 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. (Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)

HONORABLE MAYOR AND CITY COUNCIL

April 13, 2010

Subject: Approval of Implementation of Last, Best and Final Offer for ABMEI

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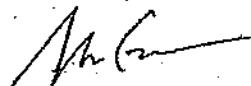
This item meets Criterion 2. This memorandum will be posted on the City's website for the April 27, 2010, Council Agenda.

COORDINATION

This memorandum was coordinated with the City Attorney's Office and the City Manager's Budget Office.

COST IMPLICATIONS

These terms meet the goal of a 5% ongoing total compensation reduction. The implementation of these terms will reduce the total compensation for employees represented by the Association of Building, Mechanical and Electrical Inspectors (ABMEI). The calculated savings to the City of approximately \$362,000 in all funds and approximately \$290,000 in the General Fund are based upon the 2010/2011 Base Budget. These savings do not assume reductions in positions represented by ABMEI and the associated loss of overhead to the General Fund that will likely be included as part of the proposed budget process. The budgetary savings will be assumed in the 2010-2011 Proposed Operating Budget scheduled for release on May 3, 2010. Because all of these General Fund savings are in the Development Fee Program, the savings must stay within the Development Fee Program. These savings do not include the currently unknown cost increases for healthcare or the increased retirement contributions for active employees in Fiscal Year 2010-2011.



Alex Gurza
Director of Employee Relations

For questions please contact Alex Gurza, Director of Employee Relations, at (408) 535-8150.

Attachments

**2009 CITY OF SAN JOSE - ABMEI NEGOTIATIONS
LAST, BEST AND FINAL OFFER**

PERIOD OF MEMORANDUM OF AGREEMENT

Term: Effective beginning the first full payperiod following ratification by the ABMEI Membership and approval by the City Council, expiring on November 13, 2010.

PAY

See Attached (City Proposal #24)

FREEZING STEP INCREASES

See Attached (City Proposal #21)

HEALTH INSURANCE- COST SHARING

See Attached (City Proposal #10)

HEALTH INSURANCE- HMO PLAN DESIGN

See Attached (City Proposal #11)

HEALTH INSURANCE- DUAL COVERAGE

See Attached (City Proposal #20)

HEALTH INSURANCE- HEALTH IN LIEU

See Attached (City Proposal #12)

DISABILITY LEAVE SUPPLEMENT

See Attached (City Proposal #19)

SICK LEAVE PAYOUT

See Attached (City Proposal #13)

RETIREMENT COST MITIGATION

See Attached (City Proposal #22)

OVERTIME- 40 HOURS

See Attached (City Proposal #5)

**2009 CITY OF SAN JOSE - ABMEI NEGOTIATIONS
LAST, BEST AND FINAL OFFER**

ALL TENTATIVE AGREEMENTS

- Housekeeping
- Sick Leave

Note: The following side letters expired on December 10, 2009, and were not renewed:

- Training
- Dispatcher Assignment
- Disciplinary Appeals Pilot Program

2009 CITY OF SAN JOSE -- ABMEI NEGOTIATIONS

CITY PROPOSAL #24: PAY**5.1 Salary Ranges**

- 5.1.1 ~~Effective December 16, 2007, June 27, 2010, all salary ranges for employees holding positions in classifications assigned to ABMEI (Union Code 03/031) shall be increased/decreased by approximately 3.004.65%.~~
- ~~5.1.1.1 Effective February 15, 2008, fulltime employees who were employed in ABMEI represented positions on October 10, 2007, employed in ABMEI represented positions on December 11, 2007, and were still employed by the City January 13, 2008, shall receive a one-time payment of \$600.~~
- 5.1.2 ~~Effective December 14, 2008, all salary ranges for employees holding positions in classifications assigned to ABMEI (Union Code 03/031) shall be increased by approximately 3.75%.~~

2009 CITY OF SAN JOSE - ABMEI NEGOTIATIONS

CITY PROPOSAL #21 - FREEZING STEP AND MERIT INCREASES

Effective June 27, 2010, all ABMEI represented employees will have step and merit increases frozen for 26 payperiods. After 26 payperiods, employees represented by ABMEI will become eligible for step increases upon completion of an additional 2080 seniority hours after the date they did not receive a step increase for which they were previously eligible.

2009 CITY OF SAN JOSE – ABMEI NEGOTIATIONS

CITY PROPOSAL #10- HEALTHCARE COST SHARING FORMULA

5.3 Health Insurance

The City will provide health coverage for eligible full-time employees and their dependents in accordance with one of the available plans. The City will pay ninety percent (90%) of the full premium cost of the lowest cost plan for employee or for employee and dependent coverage, and the employee will pay ten percent (10%) of the premium for the lowest priced plan for employee or for employee and dependent coverage, up to a maximum of one hundred dollars (\$100) per month. If the employee's 10% contribution for the lowest priced plan exceeds one hundred dollars (\$100) per month, the City shall pay the difference. If an employee selects a plan other than the lowest priced plan, the employee shall pay the difference between the total cost of the selected plan and the City's contribution towards the lowest priced plan for employee or for employee and dependent coverage.

Effective at the beginning of pay period one (1) of payroll calendar year 2008, The City will pay ninety percent (90%) of the full premium cost of the lowest cost plan for employee or for employee and dependent coverage, and the employee will pay ten percent (10%) of the premium for the lowest priced plan for employee or for employee and dependent coverage. If an employee selects a plan other than the lowest priced plan, the employee shall pay the difference between the total cost of the selected plan and the City's contribution towards the lowest priced plan for employee or for employee and dependent coverage.

Effective June 27, 2010, the City will pay eighty five percent (85%) of the full premium cost of the lowest cost plan for employee or for employee and dependent coverage, and the employee will pay fifteen percent (15%) of the premium for the lowest priced plan for employee or for employee and dependent coverage. If an employee selects a plan other than the lowest priced plan, the employee shall pay the difference between the total cost of the selected plan and the City's contribution towards the lowest priced plan for employee or for employee and dependent coverage.

2009 CITY OF SAN JOSE – ABMEI NEGOTIATIONS**CITY PROPOSAL #11- HEALTHCARE HMO PLAN DESIGN****5.3 Health Insurance**

Effective January 1, 2008, co-pays for all available HMO plans shall be as follows:

- a. Office Visit Co-pay shall be increased to \$10.
- b. Prescription Co-pay shall be increased to \$5 for generic and \$10 for brand name. (The Blue Shield HMO will continue to include \$15 non-formulary drug co-pay.)
- c. Emergency Room Co-pay shall be increased to \$50.

Effective July 1, 2010, co-pays for all available HMO plans shall be as follows:

- a. Office Visit Co-pay shall be increased to \$25.
- b. Prescription Co-pay shall be increased to \$10 for generic and \$25 for brand name.
- c. Emergency Room Co-pay shall be increased to \$100.
- d. Inpatient/Outpatient Procedure Co-pay shall be increased to \$100

2009 CITY OF SAN JOSE -- ABMEI NEGOTIATIONS

CITY PROPOSAL #20: HEALTHCARE DUAL COVERAGE**5.3 Health Insurance**

5.3.1 An employee may not be simultaneously covered by City-provided medical benefits as a City employee and as a dependent of another City employee.

5.4 Dental Insurance

5.4.1 An employee may not be simultaneously covered by City-provided dental benefits as a City employee and as a dependent of another City employee.

2009 CITY OF SAN JOSE - ABIMEI NEGOTIATIONS

CITY PROPOSAL #12- HEALTHCARE- HEALTH IN LIEU

5.5 Payment-in-Lieu of Health and Dental Insurance

5.5.1 The purpose of the payment-in-lieu of health and/or dental insurance program is to allow employees who have double health and/or dental insurance coverage to drop the City's insurance and receive a payment-in-lieu.

5.5.2 Employees who qualify for and participate in the payment-in-lieu of health and/or dental insurance program will receive 50% of the City's contribution toward their health and/or dental insurance at the lowest cost single or family plan if the employee is eligible for family coverage. The City will retain the remaining 50% of that contribution.

5.5.3 Effective June 27, 2010, employees who qualify for and participate in the payment-in-lieu of health and/or dental insurance program will receive the following per payperiod:

	Health In-Lieu	Dental In-Lieu
If eligible for family coverage:	221.84	19.95
If NOT eligible for family coverage:	89.09	19.95

5.5.4 A City employee who receives healthcare coverage as a dependent of another City employee shall be deemed not eligible for family coverage.

5.5.35 The payment-in-lieu of health and/or dental insurance program is available to full-time employees who are not on a reduced workweek or unpaid leave and have alternate group health and/or dental coverage. To qualify, an employee must provide proof of alternate group coverage to Human Resources. Alternate coverage must be acceptable by the City.

5.5.46 Enrollment in the payment-in-lieu of health and/or dental insurance program can only be done during the first 30 days of employment, during the annual open enrollment period, or within 30 days of a qualifying event (defined in the Human Resources Benefits Handbook as a change in marital, dependent or work status of the employee or the employee's spouse) occurring anytime during the year. Employees who miss the 30-day time limit after a qualifying event must wait until the next open enrollment period to enroll in the payment-in-lieu of insurance program. Enrollment in the payment-in-lieu of insurance program may be canceled by the employee only during the annual open enrollment period unless the employee loses alternate group coverage. Enrollment or cancellation during the open enrollment period will become effective the first pay period of the following calendar year.

5.5.67 Payments for the in-lieu insurance program will be discontinued if an employee becomes ineligible for the program. An employee's ineligible status would include but not be limited to the following situations: employment status changes from full to part time, employee is on an unpaid leave of absence, employee is on a reduced work week, or employee loses or does not have alternate insurance coverage. An employee whose in-lieu payments are discontinued may enroll, if eligible, in a health and/or dental plan during the next annual open enrollment period.

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5.5.68 If an employee loses alternate coverage, the employee may enroll in a City health and/or dental plan outside of the open enrollment period. To be eligible, the employee must provide verification that alternate coverage has been lost.

5.5.68.1 Health Insurance. To enroll in a City health insurance plan following loss of alternate coverage, the employee must pay all unpaid premiums (City and employee contributions) and refund any excess in-lieu payments required to make the coverage effective on the date when alternate coverage ceased. Re-enrollment in the plan shall be in accordance with the carriers' enrollment procedures.

5.5.68.2 Dental Insurance. Enrollment in a City dental insurance plan following loss of alternate coverage will become effective the first of the month following payment of two dental premiums through the City's payroll process. Re-enrollment in the dental insurance plan shall not be retroactive.

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CITY PROPOSAL #19- DISABILITY LEAVE SUPPLEMENT

ARTICLE 19 DISABILITY LEAVE

- 19.1 Disability Leave. Disability Leave Supplement (DLS) is the benefit provided pursuant to this Article, which, when added to Workers' Compensation Temporary Disability (WCTD) results in providing employees 85% of their regular base salary.
- 19.2 Eligibility for Disability Leave Supplement. A full-time employee required to be absent from work due to a job-related injury or industrial illness who receives WCTD payments pursuant to Division 1 or Division 4 of the California Labor Code is eligible for DLS, excluding ineligible causes listed in section 19.4. In the event an employee is not eligible for WCTD payments because of the statutory waiting period, DLS shall not be paid for such a waiting period. The employee may use sick leave to cover the waiting period.
- 19.2.1 After the initial three day waiting period has been met, and the employee otherwise qualifies for DLS, the employee may utilize DLS for absences required for medical visits related to the injury after his/her return to work if he/she is unable to schedule such visits on non-work hours. DLS for such intermittent absences is subject to authorization by the Workers' Compensation Section. In no event may DLS exceed the limit specified in 19.6.
- 19.3 Eligibility for Disability Leave Supplement Linked to Temporary Disability. If the Worker's Compensation Appeals Board of the State of California or any judicial court should determine that the employee is not entitled to Temporary Disability (WCTD) compensation, the employee shall not be entitled to Disability Leave Supplement (DLS) benefits. Under such circumstances, any DLS moneys paid to the employee by the City must be returned to the City within one year.
- 19.4 Ineligible Causes for Disability Leave. An employee shall not be eligible for disability leave, and shall not receive DLS if the injury or illness that causes the absence results from an act of gross negligence of such employee and/or any work voluntarily undertaken by employee from which he has been prohibited from engaging in as determined by a City physician, prior to the date of injury.
- 19.5 Ineligibility if Offer and Decline of Temporary Modified Duty. ~~DLS shall not be provided.~~ An employee shall be voluntarily separated from City service if the City offers the employee employment temporary modified duty at identical or similar salary, within the employee's medical limitations, and the employee refuses or fails to accept duty for which the employee is physically qualified.
- 19.6 Maximum Term of Disability Leave Supplement. The employee will receive DLS benefits equal to the amount of money which, when added to the WCTD equals 85% of what the employee would have earned at the position from which the employee is disabled for one of the following time periods, whichever is shortest:
1. The time the employee is medically required to be absent due to a work-related injury or illness, after the required 3-day waiting period.
 2. The period of time WCTD is payable to the employee under the Workers' Compensation provisions of Division 1 or Division 4 of the Labor Code of the State of California.

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3. ~~Nine-Six (96)~~ calendar months (~~274 days or 1560-1040~~ hours if not continually absent) following the date of injury.

19.6.1 Time Limit for DLS Eligibility. After ~~4560-1040~~ hours of DLS, the employee is entitled to no additional compensation for the injury or illness. No employee shall be eligible for DLS 5 years after the date of the onset of the injury or illness for which the employee is claiming DLS.

- 19.7 Disability Leave Supplement is in Lieu of Regular Compensation. Employees who receive WCTD and DLS compensation do not receive their regular salary. DLS as described in this Article is in lieu of regular compensation.

- 19.8 Requirement of Evidence Proving Temporary Disability. The Director of Human Resources, or designee, is responsible for determining eligibility for DLS. In making this determination, the Director may require the employee to provide proof of injury or illness, proof that the injury or illness will last, and proof of other relevant matters as determined by the Director, or designee. The Director, or designee, may require the employee to submit to a medical examination by a physician selected by the City.

- 19.9 Termination of Disability Leave. An employee who is unable to return to full time regular duty following the expiration of any and all leave provided in this Article and the integration of Sick Leave as provided in Article 18.13.1, and of accrued vacation, and compensatory time off, with Workers' Compensation may be considered to have separated from City service.

- 19.9.1 An employee who exhausts all Disability Leave shall be notified that they are subject to the above provision upon expiration of all remaining paid leave.

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CITY PROPOSAL #13- SICK LEAVE PAYOUT

18.2 Sick leave payoff shall be given to each full-time employee at the time of retirement or death under one of the following conditions:

18.2.1 Federated Retirement Plan:

The employee is:

18.2.1.1 A member of the Federated Retirement Plan, and

18.2.1.2 Retired under the provisions cited in the plan, and

18.2.1.3 Credited with at least fifteen (15) years of service in this retirement plan, or

18.2.1.4 Credited with at least ten (10) years of service prior to a disability retirement.

~~18.2.2 Terminated Employee with Vesting Rights~~

~~The employee has:~~

~~18.2.2.1 Terminated service with the City, and~~

~~18.2.2.2 Retained vesting rights in a retirement system according to provisions in the SJMC, and~~

~~18.2.2.3 Following such termination, qualifies for retirement and retires under the provisions cited in the code and~~

~~18.2.2.4 Has at the time of retirement credit for at least fifteen (15) years of service in the applicable retirement plan.~~

18.2.3 Death During Service

The estate of any full-time employee who dies while in City service and prior to retirement, even though the employee is not credited with at least fifteen (15) years of service in any applicable retirement plan.

~~18.2.4 Death of Terminated Employee~~

~~The estate of any full-time employee who:~~

~~18.2.4.1 Had terminated service with the City but had retained vesting rights in a retirement system according to provisions in the SJMC, and~~

~~18.2.4.2 Dies prior to becoming eligible for retirement allowances as cited under provisions of the SJMC, and~~

~~18.2.4.3 Has at the time of death credit for at least fifteen (15) years of service in the~~

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2009 CITY OF SAN JOSE – ABMEI NEGOTIATIONS

applicable retirement plan.

18.3 Payout shall be determined as follows:

18.3.1 If an eligible full-time employee, as defined in subsection 18.2 above, at the time of their retirement or death has earned, unused sick leave hours, the employee shall be paid the equivalent of a specified percent of their hourly rate of pay at the time of retirement, termination or death, whichever comes first, multiplied by the total number of the employee's accumulated and unused hours of sick leave as of the date of the employee's retirement or death in accordance with the 18.3.1.1.

18.3.1.1 Less than 400 hours: Hours accumulated x 50% of final hourly rate

400 - 799 hours: Hours accumulated x 60% of final hourly rate

800 - 1200 hours: Hours accumulated x 75% of final hourly rate

18.3.1.2 Distribution of payouts to eligible employees, in accordance with 18.3.1 above, who retire before June 27, 2010, shall be made no later than February 1, 2011.

18.3.2 Effective June 27, 2010, if an eligible full-time employee, as defined in subsection 18.2 above, at the time of their retirement or death has earned, unused sick leave hours, the employee shall be paid the equivalent of a specified percent of their hourly rate of pay at the time of retirement or death, whichever comes first, multiplied by the total number of the employee's accumulated and unused hours of sick leave as of the date of the employee's retirement or death in accordance with 18.3.2.1.

18.3.2.1 Less than 400 hours: Hours accumulated x 50% of final hourly rate

400 - 799-1200 hours: Hours accumulated x 60% of final hourly rate

800 - 1200 hours: Hours accumulated x 75% of final hourly rate

18.3.3 Employees hired by the City on or after June 28, 2010, if an eligible full-time employee, as defined in subsection 18.2 above, at the time of their retirement or death has earned, unused sick leave hours, the employee shall be paid the equivalent of a specified percent of their hourly rate of pay at the time of retirement or death, whichever comes first, multiplied by the total number of the employee's accumulated and unused hours of sick leave as of the date of the employee's retirement or death in accordance with 18.3.3.1.

18.3.3.1 0 - 750 hours: Hours accumulated x 25% of final hourly rate

18.4 Employees are only eligible for one sick leave payout while employed by the City of San Jose, including breaks in employment.

2009 CITY OF SAN JOSE - ABMEI NEGOTIATIONS

CITY PROPOSAL #22- RETIREMENT COST MITIGATION

ARTICLE 9 FULL UNDERSTANDING, MODIFICATION AND WAIVER

- 9.1 This Agreement sets forth the full and entire understanding of the parties regarding the matters set forth herein, and any and all prior or existing Memoranda of Understanding, understandings and agreements, whether formal or informal, are hereby superseded and terminated in their entirety.
- 9.2 Existing benefits provided by ordinance or resolution of the City Council or as provided in the San Jose Municipal Code and which are referenced in the Agreement shall be provided in accordance with the terms of the Agreement.
- 9.3 It is the intent of the parties that ordinances, resolutions, rules and regulations enacted pursuant to this Memorandum of Agreement be administered and observed in good faith.
- 9.4 Although nothing in this Agreement shall preclude the parties from mutually agreeing to meet and confer on any subject within the scope of representation during the term of this Agreement, it is understood and agreed that neither party may require the other party to meet and confer on any subject matter covered herein or with respect to any other matter within the scope of representation during the term of this Agreement.

~~9.5 Notwithstanding the provisions of Article 9.4 and Article 24, the City may notify the Organization in writing once during the term of this 2007 - 2009 Agreement of its desire to reopen negotiations regarding retiree healthcare benefits. Upon such notice being given, the duly authorized representatives of the parties shall meet and confer in good faith in an effort to reach a mutual agreement with respect to retiree healthcare benefits. If no agreement is reached, the parties will follow the impasse procedures set forth in the City of San Jose's Employer-Employee Relations Resolution (#30367) and the Meyers Millis-Brown Act. The parties understand that this means that, notwithstanding any other provision of this agreement, the City will have the right to unilaterally implement in the event that no agreement is reached at the conclusion of negotiations and mandatory impasse procedures. The parties also agree that, after declaration of impasse with respect to negotiations over a modification of retiree healthcare benefits, if the City provides notification of implementation, the Organization has the right to engage in a strike, or such other protected concerted activities on the employees' own time provided such other protected concerted activities do not impede the performance of the employees' assigned duties. Protected concerted activities shall not include partial strikes (such as refusing to work overtime, engaging in a slowdown or accepting some work tasks and refusing to perform others), intermittent strikes and sit down strikes.~~

9.5 Retirement Benefits Reopener/Cost Mitigation.

- 9.5.1 Notwithstanding any other provision of this Agreement, the parties agree to commence meeting and conferring between January 1, 2010, and January 19, 2010, within fifteen (15) calendar days of the City providing written notice to ABMEI on retiree healthcare benefits for future employees, and a medical reimbursement program for future retirees, and pension benefit/costs for current and future employees.

- 9.5.2 The parties intend to engage in the foregoing negotiations in a coalition bargaining process with all other interested represented bargaining units, if any. However, negotiations between the City and Employee Organization shall commence no later than fifteen (15) calendar days after the City provides written notice to ABMEI January 19, 2010, with or without participation of any

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other bargaining unit. The City and Employee Organization shall negotiate in good faith in an effort to reach a mutual agreement.

- 9.5.3 If no agreement is reached, the parties will follow the impasse procedures set forth in the City of San Jose's Employer-Employee Relations Resolution (#39367) and the Meyers-Millas-Brown Act. The parties understand that this means that, notwithstanding any other provision of this agreement, the City will have the right to unilaterally implement in the event that no agreement is reached at the conclusion of negotiations and mandatory impasse procedures. The parties also agree that, after declaration of impasse with respect to negotiations over a modification of retiree healthcare and pension benefits, if the City provides notification of implementation, the Organization has the right to engage in a strike, or such other protected concerted activities on the employees' own time provided such other protected concerted activities do not impede the performance of the employees' assigned duties. Protected concerted activities shall not include partial strikes (such as refusing to work overtime, engaging in a slowdown or accepting some work tasks and refusing to perform others), intermittent strikes and sit-down strikes. The City agrees that a unilateral implementation of retiree healthcare and/or pension benefits shall not be effective before July 1, 2010.

ARTICLE 25 RETIREE HEALTHCARE FUNDING

- 25.1 The City and the Employee Organization agree to transition from the current partial pre-funding of retiree medical and dental healthcare benefits (referred to as the "policy method") to pre-funding of the full Annual Required Contribution (ARC) for the retiree healthcare plan ("Plan"). The transition shall be accomplished by phasing into fully funding the ARC over a period of five (5) years beginning June 26, 2009. The Plan's initial unfunded retiree healthcare liability shall be fully amortized over a thirty year period so that it shall be paid by June 30, 2039 (closed amortization). Amortization of changes in the unfunded retiree healthcare liability other than the initial retiree healthcare liability (e.g. gains, losses, changes in actuarial assumptions, etc.) shall be determined by the Plan's actuary. The City and Plan members (active employees) shall contribute to funding the ARC in the ratio currently provided under Section 3.28.380 (C) (1) and (3) of the San Jose Municipal Code. Specifically, contributions for retiree medical benefits shall be made by the City and members in the ratio of one-to-one. Contributions for retiree dental benefits shall be made by the City and members in the ratio of eight-to-three. When determining the contribution rates for the Plan, the Plan actuary shall continue to use the Entry Age Normal (EAN) actuarial cost method and a discount rate consistent with the pre-funding policy for the Plan as outlined in this Article.
- 25.2 The City and the Employee Organization further agree that the Municipal Code and/or applicable plan documents shall be amended in accordance with the above agreement and that the Employee Organization will support such amendments.
- 25.3 It is understood that in reaching this agreement, the parties have been informed by cost estimates prepared by the Federated City Employees' Retirement System Board's actuary and that the actual contribution rates to reach full pre-funding of retiree healthcare will differ. The phase-in to the ARC shall be divided into five steps (using a straight line method), each to be effective on the first pay period of the City's fiscal year in each succeeding year. The first increment of the phase-in shall be effective on June 28, 2009. It is understood that because of changes resulting from future actuarial valuations, the amount of each increase may vary upward or downward. The City and Employee Organization agree that the Plan member cash contribution rate shall not have an incremental increase of more than .75% of pensionable pay in each fiscal year and the City cash contribution rate shall not have an incremental increase of more than .75% of pensionable pay in each fiscal year. For example, if the

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2009 CITY OF SAN JOSE – ABMEI NEGOTIATIONS

members' contribution rate is 4% of pensionable pay, the subsequent fiscal year's contribution rate for retiree healthcare cannot exceed 4.75% of pensionable pay. Notwithstanding the limitations on the incremental increases, by the end of the five year phase-in, the City and plan members shall be contributing the full Annual Required Contribution in the ratio currently provided under Section 3.28.380 (C) (1) and (3) of the San Jose Municipal Code.

- 25.4 The City will establish a qualified trust ("Trust") before June 27, 2010. Until such time as a Trust is established, the City and employee contributions under this agreement shall be made into the existing Medical Benefits Account for as long the contributions can be made into the Medical Benefits Account in accordance with IRS limitations. If the Trust is not established prior to reaching the IRS limitation, the parties agree to meet and discuss alternative funding vehicles.
- 25.5 It is the objective of the parties that the Trust created pursuant to this agreement shall become the sole funding vehicle for Federated retiree healthcare benefits, subject to any legal restrictions under the current plan, or other applicable law.

2009 CITY OF SAN JOSE - ABMEI NEGOTIATIONSCITY PROPOSAL #5- CALCULATION AND ELIGIBILITY FOR OVERTIME

- 6.6 An employee authorized or required to work overtime who works in excess of eight (8) hours per day, or ~~ten (10) hours per day if assigned to a work schedule of four (4) ten (10) hour work days, or in excess of forty (40) hours per work week,~~ shall be compensated at the rate of time and one-half (1-1/2) the employee's hourly rate, except when such excess hours result from a change in such employee's work week or shift or from the requirement that such employee fulfill his/her work week requirement.
- 6.6.1 Notwithstanding 6.6 above, any employee who works in excess of twelve consecutive hours shall be compensated at the rate of two (2) times the employee's hourly rate for all hours worked in excess of twelve (12) consecutive hours.
- 6.6.2 For overtime work, volunteers will be asked for first, whenever possible.

RD:EJM
5/17/11

RESOLUTION NO. 75810

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE APPROVING AN AGREEMENT BETWEEN THE CITY OF SAN JOSE AND THE ASSOCIATION OF BUILDING, MECHANICAL, AND ELECTRICAL INSPECTORS (ABMEI), WITH A TERM OF JULY 1, 2011 – JUNE 30, 2013

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SAN JOSE:

1. That the Agreement between the City of San José and the Association of Building, Mechanical, and electrical inspectors (ABMEI), with a term of July 1, 2011 – June 30, 2013, is hereby approved. The City Manager is hereby authorized to execute an Agreement on behalf of the City of San José.
2. The general terms of the Agreement are set out and described in the Memorandum to the Mayor and City Council from the Director of Employee Relations, dated May 17, 2011, and attached hereto as Attachment A and incorporated in this Resolution.


ADOPTED this 31st day of May, 2011, by the following vote:

AYES: CAMPOS, CHU, CONSTANT, HERRERA, KALRA,
NGUYEN, OLIVERIO, PYLE, ROCHA, REED.

NOES: LICCARDO.

ABSENT: NONE.

DISQUALIFIED: NONE.



CHUCK REED
Mayor


ATTEST:

DENNIS D. HAWKINS, CMC
City Clerk

75810

COUNCIL AGENDA: 05-31-11
ITEM: 3.2



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Alex Gurza

SUBJECT: SEE BELOW

DATE: May 17, 2011

Approved

Date

5/17/11

SUBJECT: APPROVAL OF THE TERMS OF AN AGREEMENT WITH THE
ASSOCIATION OF BUILDING, MECHANICAL, AND ELECTRICAL
INSPECTORS (ABMEI)

COUNCIL DISTRICT: N/A
SNI AREA: N/A

RECOMMENDATION

Adoption of a resolution to approve the terms of a collective bargaining agreement between the City and the Association of Building, Mechanical, and Electrical Inspectors, and authorizing the City Manager to execute an agreement with a term of July 1, 2011, through June 30, 2013.

OUTCOME

Adoption of the resolution and authorization to execute an agreement would result in a collective bargaining unit agreement between the City of San Jose and the Association of Building, Mechanical, and Electrical Inspectors (ABMEI) for the period of July 1, 2011, through June 30, 2013.

BACKGROUND

In November 2010, the City Council in open session approved a goal of reducing the total ongoing employee compensation for all City employees by ten percent (10%). "Total compensation" is the total cost to the City of pay and benefits, including base pay, retirement contributions, health insurance, and other benefits. Total compensation is calculated using budgeted salary and fringe benefit costs for the bargaining unit.

In addition to the 10% ongoing total compensation reduction approved in November 2010, the City Council approved direction to achieve the following reforms: retirement reform, including 2nd tier

GURZA000122

HONORABLE MAYOR AND CITY COUNCIL
 May 17, 2011
 Subject: Approval of an Agreement with ABMEI
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pension and retiree healthcare benefits for new hires; options for current employees; SRBR or "13th Check;" sick leave payout; disability leave supplement; and compensation structure.

The Association of Building, Mechanical, and Electrical Inspectors, hereafter referred to as "ABMEI," represents approximately 52 full time budgeted positions in the Fiscal Year 2011-2012 Proposed Operating Budget. This bargaining unit includes employees in the classifications of Building Inspector/Combination, Building Inspector/Combination Certified, Building Inspector Supervisor, and Building Inspector Supervisor Certified.

In April 2010, the City imposed a 5% total compensation reduction on ABMEI effective June 27, 2010. The 5% reduction was ongoing and was achieved through a combination of a reduced base pay and healthcare changes.

The City commenced negotiations for a successor Memorandum of Agreement (MOA) with five (5) bargaining units (including ABMEI) in January 2011. ABMEI withdrew from this coalition in March 2011, and reached a Tentative Agreement with the City on April 29, 2011, that achieves a 10% ongoing total compensation reduction and includes agreements to continue negotiations on other reforms that is consistent with City Council direction as listed above. The Tentative Agreement was ratified by the ABMEI membership on May 11, 2011.

ANALYSIS

A complete copy of the Tentative Agreements is attached. The following is a summary of the key provisions:

Term	July 1, 2011 – June 30, 2013
Base Pay Reduction-Ongoing	Effective June 26, 2011, all salary ranges for employees represented by ABMEI shall be decreased by approximately 5.45%. All employees represented by ABMEI shall receive a 5.45% base pay reduction.
Healthcare Payment-In-Lieu	A City employee who receives healthcare coverage as a dependant of a City retiree shall be deemed not eligible for family coverage.
Healthcare Dual Coverage	Effective pay date July 1, 2011, employees may no longer be simultaneously covered by City-provided medical and/or dental benefits as a City employee and as a dependent of another City retiree.
Disability Leave	Effective June 26, 2011, reduce the maximum disability supplemental pay benefit from nine (9) calendar months to three (3) calendar months (520 hours). Effective June 24, 2012, disability leave supplement will be eliminated. Employees will be allowed to integrate accrued vacation, earned compensatory time, and accrued sick leave.

- Contracting Out** The City agrees to meet and confer with ABMEI prior to contracting out work currently performed by ABMEI represented employees whenever such contracting out would result in material reduction of work or would have significant adverse impact on bargaining unit work.
- Continued Professional Training** The Department of Planning, Building, and Code Enforcement shall endeavor to provide up to twenty-four (24) hours of continued professional training per fiscal year at the discretion of the Director of PBCE.
- Salary Step Structure** Effective June 26, 2011, salary steps for all classifications represented by ABMEI will change from approximately 5% to approximately 2.5% between each step. This will increase the number of steps in each pay range.
- Subsidy for Public Transit** After calendar year 2011, the City will no longer provide employees with an ECO-Pass. Upon exhaustion of the current supply of Commuter Check Vouchers, Vouchers will no longer be available for purchase from the City.
- Side Letters**
- Retirement Reform -- The City and ABMEI agree to continue meeting and conferring on pension and retiree healthcare benefits for current and future employees. The negotiations may include modification of healthcare (medical and dental) plans available to current employees, including but not limited to plan design.
 - Sick Leave Payout -- Effective June 26, 2011, shall be determined in accordance with the provisions contained in Article 18.3 of the 2007-2009 ABMEI MOA. The City and ABMEI agree to continue meeting and conferring on sick leave payout for current and future employees.
 - Layoff -- Either the City or ABMEI may provide notice to the other of its request to meet and confer on modifications, if any, to the City's layoff process and procedures.
 - Supplemental Retiree Benefit Reserve (SRBR) -- The City and ABMEI agree to discuss the SRBR program in the Federated City Employees' Retirement System.
 - Labor Management Committee -- A Planning, Building, and Code Enforcement Department Labor Management Committee shall be formed to discuss scheduling and overtime assignments as well as to develop a Performance Management Policy.

EVALUATION AND FOLLOW-UP

None.

HONORABLE MAYOR AND CITY COUNCIL
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PUBLIC OUTREACH/INTEREST

- ☒ Criteria 1: Requires Council action on the use of public funds equal to \$1 million or greater. (Required: Website Posting)
- ☐ Criteria 2: Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. (Required: E-mail and Website Posting)
- ☐ Criteria 3: Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. (Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)

This item meets Criterion 1. This memorandum will be posted on the City's website for the May 31, 2011, Council Agenda.

COORDINATION

This memorandum was coordinated with the City Manager's Budget Office and the City Attorney's Office.

COST IMPLICATIONS

For Fiscal Year 2010-2011, concessions that achieved a 5% ongoing total compensation reduction were imposed on ABMEI. These concessions included an ongoing base pay reduction of 4.65% and healthcare cost sharing changes. ABMEI agreed to an additional ongoing base pay reduction of 5.45% effective June 26, 2011, resulting in an overall 10.1% base pay reduction for Fiscal Year 2011-2012.

As directed in the Mayor's March 2011, Budget Message as approved by the City Council, the budgetary savings associated with this action are assumed in the 2011-2012 Proposed Operating Budget which was released on May 2, 2011, as well as the 2011-2012 Proposed Fees and Charges document released on May 7, 2011. The terms of the Tentative Agreement, which includes the additional ongoing base pay reduction (5.45%) in total compensation, generate additional ongoing savings of approximately \$387,000 in all funds and approximately \$343,000 in the General Fund (primarily in the Development Fee Programs) based on the positions included in the 2011-2012 Proposed Operating Budget. These savings do not include any adjustments necessary to maintain the annual required retirement contributions and the associated change in overhead reimbursement to the General Fund from other funds. These savings also do not include the currently unknown cost increases for healthcare for the second half of Fiscal Year 2011-2012.

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CEQA

CEQA: Not a Project, File No. PP10-069(b), Personnel Related Decisions.



Alex Gurza
Director of Employee Relations

For questions please contact Alex Gurza, Director of Employee Relations, at (408) 535-8150.

Attachment

GURZA000126

CITY OF SAN JOSE
AND
ASSOCIATION OF BUILDING, MECHANICAL, AND ELECTRICAL INSPECTORS
TENTATIVE AGREEMENT

PERIOD OF MEMORANDUM OF AGREEMENT

July 1, 2011 – June 30, 2013 (See attached)

WAGES

See attached

HEALTH AND DENTAL IN LIEU

See attached

HEALTHCARE DUAL COVERAGE

See attached

DISABILITY LEAVE SUPPLEMENT

See attached

CONTRACTING OUT

See attached

CONTINUED PROFESSIONAL TRAINING

See attached

SALARY STEP STRUCTURE

See attached

SUBSIDY FOR PUBLIC TRANSIT

See attached

SIDE LETTERS

- Retirement Benefits for current and new employees (See attached)
- Layoff (See attached)
- Supplemental Retiree Benefit Reserve (SRBR) (See attached)
- Sick Leave Payout (See attached)
- Labor Management Committee (See attached)

75810

CITY OF SAN JOSE
AND
ASSOCIATION OF BUILDING, MECHANICAL, AND ELECTRICAL INSPECTORS
TENTATIVE AGREEMENT


This agreement is still considered tentative and shall not be considered final or binding until ratified by the membership and approved by the City Council. This document sets forth the full agreements of the parties reached during these negotiations. Anything not included in this document is not part of the Tentative Agreement.

FOR THE CITY:


Gina Donnelly
Deputy Director

04/29/11
Date

FOR THE UNION:


Steve Stender
Association of Building, Mechanical, and
Electrical Inspectors (ABMEI)

4-29-11
Date

2011 CITY OF SAN JOSE – ABMEI

PERIOD OF MEMORANDUM OF AGREEMENT**Proposed Language:**

This Agreement shall become effective July 1, 2011, except where otherwise provided, and shall remain in effect through June 30, 2013. No amendment or change to the provisions of this Agreement shall be valid or binding unless reduced to writing and signed by duly authorized representative(s) of the parties.

This contract expires on June 30, 2013. It is mutually agreed that the first meeting of the parties will be held no later than fifteen (15) calendar days after the City or Association receives notice from the other, which may be any date after January 1 of the year in which the current contract terminates.

This language is intended to replace the language in:

- *Article 1 of the ABMEI Memorandum of Agreement*

2011 CITY OF SAN JOSE -- ABMEI

CITY PROPOSAL -- WAGES**Proposed Language:**

Effective June 27, 2010, all salary ranges for employees holding positions in classifications assigned to ABMEI (Union Code 03/031) shall be decreased by approximately 4.65%.

Effective June 26, 2011, all salary ranges for employees holding positions in classifications assigned to ABMEI (Union Code 03/031) shall be decreased approximately by an additional 5.45%. This will result in the top and bottom of the range of all classifications represented by ABMEI (Union Code 03/031) being an additional 5.45% lower. All employees will receive an additional 5.45% base pay reduction.

This language is intended to replace the language in:

- *Article 5.1.1 of the ABMEI Memorandum of Agreement (replaces Section 5.1.1 as approved by the City Council on April 27, 2010, via the Pay proposal in the City's Last, Best, and Final Offer)*

City of San Jose
April 29, 2011

GURZA000130

2011 CITY OF SAN JOSE – ABMEI

CITY PROPOSAL – HEALTH AND DENTAL IN LIEU**Proposed Language:**

A City employee who receives healthcare coverage as a dependent of another City employee or retiree shall be deemed not eligible for family coverage.

This language shall be added under:

- *Article 5.5.4 of the ABMEI Memorandum of Agreement (replaces Article 5.5.4 as approved by the City Council on April 27, 2010, via the Healthcare – Health In Lieu proposal in the City's Last, Best, and Final Offer)*

City of San Jose
April 29, 2011

GURZA000131

2011 CITY OF SAN JOSE – ABMEI

CITY PROPOSAL – HEALTHCARE DUAL COVERAGE**Proposed Language:**

An employee may not be simultaneously covered by City-provided medical benefits as a City employee and as a dependent of another City employee or retiree.

This language shall be added under:

- *Article 5.3.1 of the ABMEI Memorandum of Agreement (replaces Section 5.3.1)*

Proposed Language:

An employee may not be simultaneously covered by City-provided dental benefits as a City employee and as a dependent of another City employee or retiree.

This language shall be added under:

- *Article 5.4.1 of the ABMEI Memorandum of Agreement (replaces Section 5.4.1)*

2011 CITY OF SAN JOSE – ABMEI

CITY PROPOSAL – DISABILITY LEAVE SUPPLEMENT

Proposed Language:

Article 19 Disability Leave

- 19.1 Disability Leave Supplement Disability Leave Supplement (DLS) is the benefit provided pursuant to this Article, which, when added to Workers' Compensation Temporary Disability (WCTD) results in providing employees 85% of their regular base salary. Effective June 24, 2012, employees shall no longer be eligible to receive DLS.
- 19.2 Eligibility for Disability Leave Supplement A full-time employee who is required to be absent from work due to a job-related injury or industrial illness who receives WCTD payments pursuant to Division 1 or Division 4 of the California Labor Code is eligible for DLS, excluding ineligible causes listed in Section 19.4. In the event an employee is not eligible for WCTD payments because of the statutory waiting period, DLS shall not be paid for such a waiting period. The employee may use sick leave to cover the waiting period.
- 19.2.1 After the initial three day waiting period has been met, and the employee otherwise qualifies for DLS, the employee may utilize DLS for absences required for medical visits related to the injury after his/her return to work if he/she is unable to schedule such visits on non-work hours. DLS for such intermittent absences is subject to authorization by the Workers' Compensation Section. In no event may DLS exceed the limit specified in Section 19.6.
- 19.3 Eligibility for Disability Leave Supplement Linked to Temporary Disability If the Workers' Compensation Appeals Board of the State of California or any judicial court should determine that the employee is not entitled to Temporary Disability (WCTD) compensation, the employee shall not be entitled to Disability Leave Supplement (DLS) benefits. Under such circumstances, any DLS moneys paid to the employee by the City must be returned to the City within one year.
- 19.4 Ineligible Causes for Disability Leave An employee shall not be eligible for disability leave, and shall not receive DLS if the injury or illness that causes the absence results from:
- An act of gross negligence of such employee
 - Any work voluntarily undertaken by employee from which he/she has been prohibited from engaging in as determined by a City physician, prior to the date of injury.

2011 CITY OF SAN JOSE – ABMEI

- 19.5 Ineligibility if Offer and Decline of Modified Duty DLS shall not be provided if the City offers the employee employment at identical or similar salary, within the employee's medical limitations, and the employee refuses or fails to accept duty for which he/she is physically qualified.
- 19.6 Maximum Term of Disability Leave Supplement The employee will receive DLS benefits equal to the amount of money which, when added to the WCTD equals 85% of what the employee would have earned at the position from which he/she is disabled for one of the following time periods, whichever is shortest:
- The time the employee is medically required to be absent due to a work-related injury or illness, after the required three day waiting period.
 - The period of time WCTD is payable to the employee under the Workers' Compensation provisions of Division 1 or Division 4 of the Labor Code of the State of California.
 - Effective June 26, 2011, an employee will be eligible to receive DLS for a maximum of three (3) months (or 520 hours if not continually absent) for any current or future work-related injury or illness. Any employee who has exceeded three (3) months (or 520 hours if not continually absent) as of June 26, 2011, will no longer be eligible to receive DLS.
- 19.7 Time Limit for DLS Eligibility Effective June 26, 2011, after 520 hours of DLS, the employee is entitled to no additional compensation for the injury or illness. No employee shall be eligible for DLS five (5) years after the date of the onset of the injury or illness for which he/she is claiming DLS.
- 19.8 Disability Leave Supplement is in Lieu of Regular Compensation Employees who receive WCTD and DLS compensation do not receive their regular salary. DLS as described in this Article is in lieu of regular compensation.
- 19.9 Requirement of Evidence Proving Temporary Disability The Director of Finance is responsible for determining eligibility for DLS. In making this determination, the Director may require the employee to provide proof of injury or illness, proof that the injury or illness will last, and proof of other relevant matters as determined by the Director. The Director may require the employee to submit to a medical examination by a physician selected by the City.
- 19.10 Termination of Disability Leave An employee who is unable to return to full time regular duty following the expiration of any and all leave provided in this Article and the integration of accrued vacation and of Sick Leave as

2011 CITY OF SAN JOSE – ABMEI

provided in Article 18 and with Workers' Compensation may be separated from City service.

19.11 Integration After the maximum time limit specified in Article 19.6, the integration of an employee's available leave will occur in the following order: (1) accrued Vacation hours, (2) earned Compensatory Time once Vacation has been exhausted, and (3) accrued Sick Leave once Vacation and Compensatory Time have both been exhausted.

- In no event shall an employee receive an amount, including any Workers' Compensation Temporary Disability payments, in excess of the employee's regular base salary.

This language is intended to:

- *Replace Article 19 through Article 19.9.1, and eliminate Article 18.1.3.1 through Article 18.1.3.2, of the ABMEI Memorandum of Agreement, in addition to any other changes approved by City Council on April 27, 2010, via the Disability Leave Supplement proposal in the City's Last, Best and Final Offer.*

2011 CITY OF SAN JOSE – ABMEI

CITY PROPOSAL – FULL UNDERSTANDING, MODIFICATION AND WAIVER**Proposed Language:**

The City agrees to meet and confer with the Union prior to contracting out work currently performed by bargaining unit members whenever such contracting out would result in material reduction of work done by bargaining unit members or would have significant adverse impact on bargaining unit work. It is agreed that position reductions, which result in lay-off of employees in the bargaining unit constitute significant impact on bargaining unit work.

This language shall be added as Article 9.5 of the ABMEI Memorandum of Agreement.

2011 CITY OF SAN JOSE -- ABMEI

CITY PROPOSAL - CONTINUED PROFESSIONAL TRAINING

Proposed language:

by the City
The Department of Planning, Building, and Code Enforcement shall endeavor to provide up to twenty-four (24) hours of training per fiscal year, as is relevant to each inspector employed in the Department of Planning, Building, and Code Enforcement. Such training shall be scheduled at the discretion of the Director of Planning, Building, and Code Enforcement and employees shall be compensated at the appropriate rate for attendance at the training.

ABMEI member
ABMEI shall make recommendations regarding training needs and advise the Department Director and the training committee of specific training opportunities.

This language shall be added as

- Article 31 of the ABMEI Memorandum of Agreement.

2011 CITY OF SAN JOSE – ABMEI

CITY PROPOSAL – SALARY STEP STRUCTURE**Proposed Language:****Salary Steps**

Effective June 26, 2011, the salary steps for all classifications represented by ABMEI will change from approximately 5% between each step to approximately 2.5%. This will result in an increase in the number of steps in the pay range.

This language shall be added as:

- *Article 5.1.8 of the ABMEI Memorandum of Agreement*

2011 CITY OF SAN JOSE - ABMEICITY PROPOSAL - PUBLIC TRANSIT SUBSIDY (ECO-PASS AND SUBSIDIZED
COMMUTER CHECK VOUCHER PROGRAM)ECO-Pass

After calendar year 2011, the City will no longer provide employees an ECO-Pass. This means that any employee in possession of a 2011 ECO-Pass provided by the City may continue its use through calendar year 2011. Beginning calendar year 2012, the City will cease providing an ECO-Pass.

Commuter Check Program

Upon exhaustion of the current supply of Commuter Check Vouchers, the Vouchers will no longer be available to employees for purchase from the City. This means that the subsidized Commuter Check Voucher Program is eliminated after the current supply of Commuter Check Vouchers are exhausted.

Side Letter Agreement

BETWEEN

THE CITY OF SAN JOSE

and

ASSOCIATION OF BUILDING, MECHANICAL, AND ELECTRICAL INSPECTORS
(ABMEI)RETIREMENT REFORM

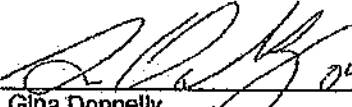
The City and the Association of Building, Mechanical, and Electrical Inspectors (ABMEI) agree to continue meeting and conferring on pension and retiree healthcare benefits for current and future employees, including but not limited to healthcare benefits. The negotiations may include modification of healthcare (medical and dental) plans available to current employees, including but not limited to plan design.

Either the City or ABMEI may provide notice to the other of its request to continue to meet and confer. Upon such notice, the parties shall continue these negotiations within ten (10) calendar days after the City or ABMEI receives notice from the other. The City and ABMEI shall continue to meet and confer in good faith in an effort to reach a mutual agreement.

If the parties are at impasse and no agreement is reached, either party may invoke the impasse procedures in accordance with the applicable provisions under the Employer-Employee Relations Resolution No. 39367. The parties understand that this means that, notwithstanding any other provision in any successor Memorandum of Agreement, the City will have the right to unilaterally implement in the event that no agreement is reached at the conclusion of negotiations and mandatory impasse procedures. In such event, neither party waives any legal rights including the Union's nor any member's right to assert that certain benefits are vested.

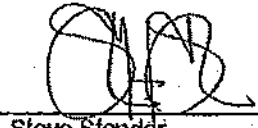
This Agreement is tentative and shall become effective only as part of the overall agreement on, and only during the term of, a successor agreement between the City and ABMEI.

FOR THE CITY:


Gina Donnelly
Office of Employee Relations

Date

FOR ABMEI:


Steve Stender
Association of Building, Mechanical, and
Electrical Inspectors (ABMEI)

Date

Side Letter Agreement

BETWEEN

THE CITY OF SAN JOSE

and

ASSOCIATION OF BUILDING, MECHANICAL, AND ELECTRICAL INSPECTORS
(ABMEI)**LAYOFF**

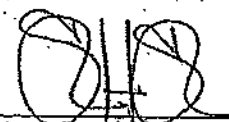
The City or the Association of Building, Mechanical, and Electrical Inspectors (ABMEI) may provide notice to the other of its request to meet and confer on modifications to the City's layoff process and procedure, including the provisions of the Layoff article in the Memorandum of Agreement. Upon such notice, the parties shall meet within ten (10) calendar days after the City or ABMEI receives notice from the other. The City and ABMEI shall meet and confer in good faith in an effort to reach a mutual agreement. If the parties are at impasse and no agreement is reached, either party may invoke the Impasse procedures in accordance with the applicable provisions under the Employer-Employee Relations Resolution No. 39367. The parties understand that this means that, notwithstanding any other provision in any successor Memorandum of Agreement, the City will have the right to unilaterally implement in the event that no agreement is reached at the conclusion of negotiations and mandatory impasse procedures.

This Agreement is tentative and shall become effective only as part of the overall agreement on, and only during the term of, a successor Memorandum of Agreement.

FOR THE CITY:

FOR ABMEI:

 04/29/11
Gina Donnelly Date
Office of Employee Relations

 4-29-11
Steve Stender Date
Association of Building, Mechanical, and
Electrical Inspectors (ABMEI)

75810

Side Letter Agreement

BETWEEN

THE CITY OF SAN JOSE

and

ASSOCIATION OF BUILDING, MECHANICAL, AND ELECTRICAL INSPECTORS
(ABMEI)

SUPPLEMENTAL RETIREE BENEFIT RESERVE (SRBR)

The City and the Association of Building, Mechanical, and Electrical Inspectors (ABMEI) agree to discuss the Supplemental Retiree Benefit Reserve (SRBR) program in the Federated City Employees' Retirement System.

Either the City or ABMEI may provide notice to the other of its request to discuss the SRBR program. Upon such notice, the parties shall continue these discussions within ten (10) calendar days after the City or ABMEI receives notice from the other.

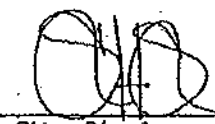
To the extent that any change to the SRBR program is a mandatory subject of bargaining, the City and ABMEI shall meet and confer in good faith in an effort to reach a mutual agreement. If the parties are at impasse and no agreement is reached on those issues that are a mandatory subject of bargaining, either party may invoke the impasse procedures in accordance with the applicable provisions under the Employer-Employee Relations Resolution No. 39367. The parties understand that this means that, notwithstanding any other provision in any successor Memorandum of Agreement, the City will have the right to unilaterally implement in the event that no agreement is reached at the conclusion of negotiations and mandatory impasse procedures. In such event, neither party waives any legal rights including the Union's nor any member's right to assert that certain benefits are vested.

This Agreement is tentative and shall become effective only as part of the overall agreement on, and only during the term of, a successor Memorandum of Agreement.

FOR THE CITY:

FOR ABMEI:


Gina Donnelly
Office of Employee Relations
Date 07/29/11


Steve Stender
Association of Building, Mechanical, and
Electrical Inspectors (ABMEI)
Date 4-29-11

GURZA000142

75810

Side Letter Agreement

BETWEEN

THE CITY OF SAN JOSE

and

**ASSOCIATION OF BUILDING, MECHANICAL AND ELECTRICAL INSPECTORS
(ABMEI)**

SICK LEAVE PAYOUT

Effective June 28, 2011, sick leave payout shall be determined in accordance with the provisions contained in Article 18.3. of the 2007-2009 City/Association of Building, Mechanical and Electrical Inspectors (ABMEI) Memorandum of Agreement.

The City and ABMEI agree to continue meeting and conferring on sick leave payout (Article 18.2 through Article 18.4) for current and future employees.

Either the City or ABMEI may provide notice to the other of its request to meet and confer. Upon such notice, the parties shall continue these negotiations within ten (10) calendar days after the City or ABMEI receives notice from the other. The City and ABMEI shall meet and confer in good faith in an effort to reach a mutual agreement. If the parties are at impasse and no agreement is reached, either party may invoke the impasse procedures in accordance with the applicable provisions under the Employer-Employee Relations Resolution No. 39367. The parties understand that this means that, notwithstanding any other provision in any successor Memorandum of Agreement, the City will have the right to unilaterally implement in the event that no agreement is reached at the conclusion of negotiations and mandatory impasse procedures. In such event, neither party waives any legal rights including the Union's nor any member's right to assert that certain benefits are vested.


This Agreement is tentative and shall become effective only as part of the overall agreement on, and only during the term of, a successor agreement between the City and ABMEI.

FOR THE CITY:


Gina Donnelly
Office of Employee Relations

04/29/11
Date

FOR ABMEI:


Steve Stender
Association of Building, Mechanical and
Electrical Inspectors (ABMEI)

4-29-11
Date

GURZA000143

75810

Side Letter Agreement

BETWEEN

THE CITY OF SAN JOSE

and

ASSOCIATION OF BUILDING, MECHANICAL, AND ELECTRICAL INSPECTORS
(ABMEI)

PLANNING, BUILDING, AND CODE ENFORCEMENT
LABOR MANAGEMENT COMMITTEE

A Labor Management Committee (LMC) shall be established for the purposes of (1) discussing scheduling and overtime assignments and (2) to develop a Performance Management Policy that provides criteria to determine the appropriate rate of pay upon appointment and criteria to receive step and merit increases. Meetings shall begin no later than June 1, 2011, to discuss scheduling and overtime assignments. Meetings shall begin no later than July 1, 2011, unless otherwise agreed to, to discuss the Performance Management Policy.


LMCs are not authorized to meet and confer to create contractual obligations nor are they to change the MOA to authorize any practice in conflict with existing contracts or rules. Management and the Union shall each select three (3) representatives to participate in this LMC. One (1) representative from the Office of Employee Relations will be involved in the LMC meetings to observe and act as a resource to the committee.

This Agreement is tentative and shall become effective only as part of the overall agreement on, and only during the term of, a successor Memorandum of Agreement.

FOR THE CITY:

FOR ABMEI:


Gina Donnelly
Office of Employee Relations
04/29/11
Date


Steve Stender
Association of Building, Mechanical, and
Electrical Inspectors (ABMEI)
4-29-11
Date

GURZA000144

RESOLUTION NO 75451

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSÉ APPROVING AGREEMENTS WITH THE ASSOCIATION OF ENGINEERS AND ARCHITECTS, INTERNATIONAL FEDERATION OF PROFESSIONAL AND TECHNICAL ENGINEERS, LOCAL 21, UNITS 041/042 AND UNIT 043, WITH TERMS OF JULY 1, 2010 – JUNE 30, 2011

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SAN JOSÉ:

1. That the Agreement between the City of San José and the Association of Engineers and Architects, International Federation of Professional and Technical Engineers, Local 21, Units 041/042, with a term of July 1, 2010 – June 30, 2011, is hereby approved. The City Manager is hereby authorized to execute an Agreement on behalf of the City of San José.
2. That the Agreement between the City of San José and the Association of Engineers and Architects, International Federation of Professional and Technical Engineers, Local 21, Unit 043, with a term of July 1, 2010 – June 30, 2011, is hereby approved. The City Manager is hereby authorized to execute an Agreement on behalf of the City of San José.
3. The general terms of the Agreements are set out and described in the Supplemental Memorandum to the Mayor and City Council from the Director of Employee Relations, dated June 21, 2010, and attached hereto as Attachment A and incorporated in this Resolution.

RD:SSH
6/22/10

RES NO. 75451

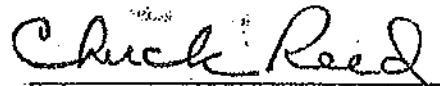
ADOPTED this 22nd day of June, 2010, by the following vote:

AYES: CAMPOS, CHIRCO, CHU, CONSTANT, HERRERA,
KALRA, LICCARDO, NGUYEN, OLIVERIO, PYLE; REED.

NOES: NONE.

ABSENT: NONE.

DISQUALIFIED: NONE.



CHUCK REED
Mayor

ATTEST:


LEE PRICE, MMC
City Clerk

75451

SUPPLEMENTALCOUNCIL AGENDA: 06/22/10
ITEM: 3.13*Memorandum*TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Alex Gurza

SUBJECT: SEE BELOW

DATE: June 21, 2010

Approved

Date

6/21/10

SUBJECT: APPROVAL OF AN AGREEMENT WITH THE ASSOCIATION OF
ENGINEERS AND ARCHITECTS, INTERNATIONAL FEDERATION OF
PROFESSIONAL AND TECHNICAL ENGINEERS, LOCAL 21, UNITS
41/42 AND UNIT 43 (AEA)

SUPPLEMENTAL**REASON FOR SUPPLEMENTAL MEMORANDUM**

Item 3.13 on the City Council Agenda is for approval of an agreement or implementation of terms contained in the City's Last, Best and Final Offer with the Association of Engineers and Architects, International Federation of Professional and Technical Engineers, Local 21, Units 41/42 and Unit 43 (AEA). The Memorandum dated June 4, 2010, includes the terms of the City's Last, Best and Final Offer. A tentative agreement was reached with AEA on June 21, 2010, that achieves a total compensation reduction of 10% (5% ongoing and 5% one-time), and this Memorandum outlines the terms of that tentative agreement.

It is recommended that the City Council authorize the execution of an agreement for the period of July 1, 2010 through June 30, 2011, between the City and the Association of Engineers and Architects, International Federation of Professional and Technical Engineers, Local 21, Units 41/42 and Unit 43 (AEA).

BACKGROUND

The City of San Jose provided AEA with its Last, Best and Final Offer on May 27, 2010. The elements of the Last, Best and Final Offer were contained in the Memorandum dated June 4, 2010.

This item was originally on the City Council Agenda for June 15, 2010, but was deferred until June 17, 2010. During the meeting on June 17, 2010, the City Council decided to again delay that decision until June 22, 2010, to allow the City and the bargaining unit time for further discussions.

The City and five bargaining units met on June 18, 2010. The City and the bargaining units developed language that, if ratified by the members, would be recommended by the City

GURZA000147

HONORABLE MAYOR AND CITY COUNCIL

June 21, 2010

Subject: Approval of an Agreement with AEA (Units 41/42 and Unit 43)

Page 2 of 3

Manager for approval by the City Council. This draft language reached the 10% total compensation reduction, 5% ongoing and 5% one-time. It also avoided any City Charter issues that were previously identified with the bargaining units' prior proposal.

AEA took this language to their membership on June 21, 2010, and the City has been notified that the membership ratified the language. Following confirmation of ratification, the City executed a tentative agreement. A complete copy of the tentative agreement is attached.

ANALYSIS

The following is a summary of terms contained in the tentative agreement with AEA (Units 41/42 and Unit 43) that are recommended to be implemented upon approval by the City Council:

Term July 1, 2010 - June 30, 2011

First 5% Ongoing Total Compensation Reduction Effective June 27, 2010, employees will make an additional retirement contribution in the amount of 7.29% of pensionable compensation, and this amount will be applied to reduce the contributions that the City would otherwise be required to make during that time period for the pension unfunded liability. This additional employee retirement contribution would be in addition to the employee retirement contribution rates as approved by the Federated City Employees' Retirement System Board.

In the event the additional retirement contribution cannot be implemented or is ceased for any reason, employees would instead have an ongoing base pay reduction in the equivalent amount of 5% in total compensation.

Additional 5% One-Time Total Compensation Reduction-Retirement Contributions Effective June 27, 2010 through June 25, 2011, employees will make an additional retirement contribution in the amount of 3.71% of pensionable compensation, and this amount will be applied to reduce the contributions that the City would otherwise be required to make during that time period for the pension unfunded liability. This additional employee retirement contribution would be in addition to the employee retirement contribution rates as approved by the Federated City Employees' Retirement System Board.

In the event the additional retirement contribution cannot be implemented or is ceased for any reason, employees would instead have their base pay temporarily reduced by the equivalent amount.

Additional 5% One-Time Total Compensation Reduction-Base Pay Reduction Effective June 27, 2010 through June 25, 2011, all full-time employees and part-time employees in the Federated City Employees' Retirement System shall receive a 2.65% temporary base pay reduction. This will result in the top and bottom steps of the range being 2.65% lower.

HONORABLE MAYOR AND CITY COUNCIL

June 21, 2010

Subject: Approval of an Agreement with AEA (Units 41/42 and Unit 43)

Page 3 of 3

**Contingency
Provision**

In the event that the additional employee retirement contributions described above are not implemented for any reason by October 1, 2010, or the Federated City Employees' Retirement System Board's actuary concludes that the City's contribution rate could not be reduced by a commensurate amount, the equivalent amount of total compensation shall be taken as a base pay reduction and will increase on a pro-rata basis over the remaining pay periods in the Fiscal Year to achieve the equivalent total compensation reduction.

In the event that the additional employee retirement contributions described above are ceased for any reason thereafter, or the Federated City Employees' Retirement System Board's actuary concludes that the City's contribution rate could not be reduced by the commensurate amount after beginning such deductions, the equivalent amount of total compensation shall be taken as a base pay reduction.

**Commencement of
Negotiations**

It is mutually agreed that the first meeting of the parties will be held no later than fifteen (15) days after the City or Association receives notice from the other, which may be any date after January 1 of the year in which the current contract terminates.

COST IMPLICATIONS

These terms meet the goal of a 10% total compensation reduction, including 5% in an ongoing total compensation reduction and another 5% in a one-time total compensation reduction. The approval of this tentative agreement will reduce the total compensation for employees represented by the Association of Engineers and Architects, International Federation of Professional and Technical Engineers, Local 21, Units 41/42 and Unit 43 (AEA). The calculated savings to the City is approximately \$2.9 million in all funds and approximately \$0.2 million in the General Fund. These cost savings are projected based on the Fiscal Year 2010-2011 Proposed Budget. It should be noted, however, that the actual amount of General Fund and all funds savings would need to be adjusted to reflect final budget approval by the City Council, any associated impacts on revenue from lower overhead or other reimbursements, and any adjustments to the cost-recovery fee program.



Alex Gurza
Director of Employee Relations

For questions please contact Alex Gurza, Director of Employee Relations, at (408) 535-8150.

AEA

TERM

July 1, 2010-June 30, 2011

ADDITIONAL RETIREMENT CONTRIBUTIONS**ON-GOING ADDITIONAL RETIREMENT CONTRIBUTIONS**

Effective June 27, 2010, all employees who are members of the Federated City Employees' Retirement System will make additional retirement contributions in the amount of 7.29% of pensionable compensation, and the amounts so contributed will be applied to reduce the contributions that the City would otherwise be required to make for the pension unfunded liability, which is defined as all costs in both the regular retirement fund and the cost-of-living fund, except current service normal costs in those funds. This additional employee retirement contribution would be in addition to the employee retirement contribution rates that have been approved by the Federated City Employees' Retirement System Board. The intent of this additional retirement contribution by employees is to reduce the City's required pension retirement contribution rate by a commensurate 7.29% of pensionable compensation, as illustrated below:

Federated			
	City	Employee	Total
Current Contribution Rates	29.59%	10.30%	39.89%
Contribution Rates With Additional Employee Contributions	22.30%	17.59%	39.89%

Note: Additional contributions made by employees do not affect the retiree healthcare rates.

ONE-TIME ADDITIONAL RETIREMENT CONTRIBUTIONS (Fiscal Year 2010-2011)

In addition to the retirement contributions specified above, effective June 27, 2010, through June 25, 2011, all employees will make an additional retirement contribution in the amount of 3.71% of pensionable compensation, and the amounts so contributed will be applied to reduce the contributions that the City would otherwise be required to make during that time period for the pension unfunded liability, which is defined as all costs in both the regular retirement fund and the cost-of-living fund, except current service normal costs in those funds. This additional employee retirement contribution would be in addition to the employee retirement contribution rates that have been approved by the Federated City Employees' Retirement System Board.

TREATMENT OF ADDITIONAL EMPLOYEE CONTRIBUTIONS

Both the on-going and one-time additional retirement contributions shall be treated in the same manner as any other employee contributions. Accordingly, the intent of these additional payments will be made on a pre-tax basis through payroll deductions pursuant to IRS Code Section 414(h)(2) and will be subject to withdrawal, return and redeposit in the same manner as any other employee contributions.

For the City: Jennifer Schenck
6/21/10

For the Union: Nancy J. Peterson
6/18/10
Vern M. H. H. H.
6/18/10

AEA

IMPLEMENTATION OF ADDITIONAL RETIREMENT CONTRIBUTIONS AND MISSED CONTRIBUTIONS

It is the intent of the parties that the employees pay the entire annual amount of the additional retirement contributions for the 2010-2011 Fiscal Year. Since the additional on-going and one-time employee contributions will not be implemented by June 27, 2010, when the additional employee contributions are implemented in the City's payroll system the Finance Department will compute the rate that will generate the total amount of additional retirement contributions over the remaining pay periods in the fiscal year as if the contribution rate had been implemented on June 27, 2010.

For example, if the additional contributions do not begin until August 22, 2010 (pay period #18) the additional employee contributions for each of the subsequent pay periods in the 2010-2011 Fiscal Year will be recalculated by the Finance Department so that 100% of the additional employee contributions are made by the end of the fiscal year.

The parties understand that in order to implement this provision, an amendment must be made to the Federated City Employees' Retirement System that requires an ordinance amending the San Jose Municipal Code. In addition, the parties understand that the City will request that the Federated City Employees' Retirement System Board have its actuary confirm that an increase of the employee contribution will reduce the City's contribution rate by a commensurate amount.

CONTINGENCY PROVISION

In the event that the additional employee retirement contributions described above are not implemented for any reason by October 1, 2010, or the Federated City Employees' Retirement System Board's actuary concludes that the City's contribution rate could not be reduced by a commensurate amount, the equivalent amount of total compensation shall be taken as a base pay reduction and will increase on a pro-rata basis over the remaining pay periods in the fiscal year to achieve the equivalent total compensation reduction.

In the event that the additional employee retirement contributions described above are ceased for any reason thereafter, or the Federated City Employees' Retirement System Board's actuary concludes that the City's contribution rate could not be reduced by the commensurate amount after beginning such deductions, the equivalent amount of total compensation shall be taken as a base pay reduction.

BALANCE TO EQUAL 10% OF TOTAL COMPENSATION

Effective June 27, 2010 through June 25, 2011, all employees shall receive a 2.65% temporary base pay reduction. This will result in the top and bottom steps of the range being 2.65% lower.

COMMENCEMENT OF NEGOTIATIONS

It is mutually agreed that the first meeting of the parties will be held no later than fifteen (15) calendar days after the City or Association receives notice from the other, which may be any date after January 1 of the year in which the current contract terminates.

For the City: Dennis Schenck
6/21/10

For the Union: Nancy J. Bateman
6/18/10

For the Union: Jon Harkness
6/18/10

Memorandum of Agreement

City of San José

and

**Association of Engineers and Architects (AEA)
International Federation of Professional and
Technical Engineers, Local 21
AFL-CIO
Units 041 and 042**



July 1, 2010 – June 30, 2011

Association of Engineers and Architects,
International Federation of Professional and Technical Engineers, Local 21
Units 041 and 042
Memorandum of Agreement

July 1, 2010 through June 30, 2011

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EXHIBIT I Job Classifications

would have been otherwise entitled to such lateral class at the time of the most recent layoff.

- 9.6.3 Any person who is reinstated to a class which is the highest class to which he/she would have been entitled at the time of the layoff shall have his/her name removed from the Reinstatement Eligible List.
- 9.6.4 In the event a person on layoff cannot be contacted by the City through usual and customary channels, including, but not limited to emails, phone calls or regular mail within ten (10) working days, such person's name shall be removed from the Reinstatement Eligible List, providing, however, that such person within the three (3) year period specified herein may request that his/her name be replaced on the Reinstatement Eligible List and such person's name may, in the sole discretion of the Director of Human Resources or his/her designee, be returned to the Reinstatement Eligible List. It shall be the responsibility of each person placed on the Reinstatement Eligible list to notify the Department of Human Resources of changes in contact information including, but not limited to email address, phone number or mailing address.
- 9.6.5 In no event shall the names of any person laid off pursuant to the provisions of this Article remain on a Reinstatement Eligible List for a period longer than three (3) years from the effective date of such person's most recent layoff. If there are employees on a Reinstatement Eligible List, the City will review such list prior to contracting-out work, or hiring outside work, to determine if the work could be performed by someone on the Reinstatement Eligible List.
- 9.6.6 Upon reinstatement to any classification to which the employee is entitled pursuant to the provisions of this Article, all benefits acquired by the employee prior to his/her layoff shall also be reinstated. An employee shall not receive credit for time spent on layoff in computing time for any benefit entitlement.

ARTICLE 10 WAGES AND SPECIAL PAY

10.1 Salary Ranges/Additional Retirement Contributions.

- 10.1.1 On-Going Additional Retirement Contributions. Effective June 27, 2010, all employees who are members of the Federated City Employees' Retirement System will make additional retirement contributions in the amount of 7.30% of pensionable compensation, and the amounts so contributed will be applied to reduce the contributions that the City would otherwise be required to make for the pension unfunded liability, which is defined as all costs in both the regular retirement fund and the cost-of-living fund, except current service normal costs in those funds. This additional employee retirement contribution would be in addition to the employee retirement contribution rates that have been approved by the Federated City Employees' Retirement System Board. The intent of this additional retirement contribution by employees is to reduce the City's required pension retirement contribution rate by a commensurate 7.30% of pensionable compensation, as illustrated below:

Federated			
	City	Employee	Total
Current Contribution Rates	29.59%	10.30%	39.89%
Contribution Rates With Additional Employee Contributions	22.29%	17.60%	39.89%

Note: Additional contributions made by employees do not affect the retiree healthcare rates.

10.1.2 One-Time Additional Retirement Contributions (Fiscal Year 2010-2011). In addition to the retirement contributions specified above, effective June 27, 2010, through June 25, 2011, all employees will make an additional retirement contribution in the amount of 3.53% of pensionable compensation, and the amounts so contributed will be applied to reduce the contributions that the City would otherwise be required to make during that time period for the pension unfunded liability, which is defined as all costs in both the regular retirement fund and the cost-of-living fund, except current service normal costs in those funds. This additional employee retirement contribution would be in addition to the employee retirement contribution rates that have been approved by the Federated City Employees' Retirement System Board.

10.1.3 Treatment of Additional Employee Contributions. Both the on-going and the one-time additional retirement contributions shall be treated in the same manner as any other employee contributions. Accordingly, the intent of these additional payments will be made on a pre-tax basis through payroll deductions pursuant to IRS Code Section 414(h)(2) and will be subject to withdrawal, return and redeposit in the same manner as any other employee contributions.

10.1.4 Implementation of Additional Retirement Contributions and Missed Contributions. It is the intent of the parties that the employees pay the entire annual amount of the additional retirement contributions for the 2010-2011 Fiscal Year. Since the additional on-going and one-time employee contributions will not be implemented by June 27, 2010, when the additional employee contributions are implemented in the City's payroll system the Finance Department will compute the rate that will generate the total amount of additional retirement contributions over the remaining pay periods in the fiscal year as if the contribution rate had been implemented on June 27, 2010.

For example, if the additional contributions do not begin until August 22, 2010 (pay period #18) the additional employee contributions for each of the subsequent pay periods in the 2010-2011 Fiscal Year will be recalculated by the Finance

Department so that 100% of the additional employee contributions are made by the end of the fiscal year.

The parties understand that in order to implement this provision, an amendment must be made to the Federated City Employees' Retirement System that requires an ordinance amending the San Jose Municipal Code. In addition, the parties understand that the City will request that the Federated City Employees' Retirement System Board have its actuary confirm that an increase of the employee contribution will reduce the City's contribution rate by a commensurate amount.

- 10.1.5 Contingency Provision. In the event that the additional employee retirement contributions described above are not implemented for any reason by October 1, 2010, or the Federated City Employees' Retirement System Board's actuary concludes that the City's contribution rate could not be reduced by a commensurate amount, the equivalent amount of total compensation shall be taken as a base pay reduction and will increase on a pro-rata basis over the remaining pay periods in the fiscal year to achieve the equivalent total compensation reduction.

In the event that the additional employee retirement contributions described above are ceased for any reason thereafter, or the Federated City Employees' Retirement System Board's actuary concludes that the City's contribution rate could not be reduced by the commensurate amount after beginning such deductions, the equivalent amount of total compensation shall be taken as a base pay reduction.

- 10.1.6 Balance to Equal 10% of Total Compensation. Effective June 27, 2010 through June 25, 2011, all employees shall receive a 2.80% temporary base pay reduction. This will result in the top and bottom steps of the range being 2.80% lower.

10.2 Bilingual Pay

- 10.2.1 An employee must meet at least one of the following eligibility requirements and must be certified as bilingual for oral communication, written translation or sign language duties according to the current established procedure.

10.2.1.1 The employee is currently assigned to a position selectively certified based on bilingual ability by the Director of Human Resources, or his/her designee, or

10.2.1.2 The duties currently assigned and currently being performed by an employee have been designated by the Department Director or his/her designee as requiring utilization of a non-English language on a regular basis.

- 10.2.2 Each full-time employee who meets the above eligibility requirements shall be compensated for performing oral communication or sign language duties at the rate of \$29.00 per biweekly pay period and for performing written translation

duties at the rate of \$40.00 per biweekly pay period for each pay period actually worked.

10.2.3 Each part-time employee who meets the above eligibility requirements shall be compensated for performing oral communication or sign language duties at the rate of \$19.00 per biweekly pay period and for performing written translation duties at the rate of \$30.00 per biweekly pay period for each pay period actually worked.

10.2.4 If an eligible employee is on paid leave for a period of one full pay period or more, the employee will not receive bilingual pay for that period.

10.3 Working in a Higher Classification

10.3.1 Upon specific written assignment by the Department Director, or his/her designated representative, with prior written approval, a full-time employee may be required to perform the duties of a full-time position in a higher classification. Such assignments shall be made to existing authorized positions that are not actively occupied due to the temporary absence of the regularly appointed employee.

10.3.2 As an alternative to making appointments to vacant positions, a Department may, upon the approval of the Office of the City Manager, assign an employee to work in a higher classification for a period of time not to exceed twelve (12) months. At the expiration of the period of assignment (not to exceed twelve months), the assigned employee shall return to his/her regular assignment. The Department may then request authorization to fill the position on a regular basis or return it to vacant status.

10.3.3 Employees specifically assigned in writing to duties of a higher classification as specified above shall be compensated at the rate in the salary range of the higher class, which is at least two (2) salary rates (steps) higher in the salary range schedule, approximately equal to five percent (5%) higher than the rate received by the employee in the employee's present class. The employee shall not receive the rate of compensation, however, unless the assignment is for a minimum of three (3) consecutive months.

10.4 Mileage Reimbursement Each employee of the City who is authorized by the Department Director or designee to use the employee's private automobile in the performance of the duties of the employee's position, shall be paid as a travel allowance for such use of his/her private automobile a "mileage reimbursement rate" consistent with the City's rate.

10.5 Premium Pay

10.5.1 Employees shall receive a professional achievement incentive of .25% (paid biweekly) in addition to their base salary as follows. Employees are eligible for one (1) professional achievement incentive. In order to receive the professional

achievement incentive the license or registration must be related to the specific discipline of the employee's classification and is subject to approval by Department Director or designee.

10.5.2 Eligible Licenses/Registrations:

License/Registration
Landscape Architect
Architect
Professional Engineer (Civil)
Engineering Geologist
Traffic Engineer
Professional Engineer (Mechanical)
Professional Engineer (Electrical)
Fire Protection Engineer
Professional Engineer (Chemical)

10.6.3 Employees in the Fire Department are eligible to receive a professional achievement incentive for a Plans Examiner Certificate. These employees in the Fire Department are only eligible for one (1) professional achievement incentive for a maximum of .25% of base salary.

10.6.4 Payment of such incentive is not intended to impair or alter the City's ability to transfer or reassign an employee.

10.6.5 Incentives are payable effective the first pay period following the employee's submission to the department of written proof of license from the appropriate Board of Registration.

ARTICLE 11 BENEFITS

11.1 Health Insurance

11.1.1 The City will provide health coverage for eligible full-time employees and their dependents in accordance with one of the available plans.

11.1.2 Effective at the beginning of pay period one (1) of payroll calendar year 2007, The City will pay ninety percent (90%) of the full premium cost of the lowest cost plan for employee or for employee and dependent coverage, and the employee will pay ten percent (10%) of the premium for the lowest priced plan up to a maximum of one-hundred dollars (\$100) per month. If the employee's 10% contribution for the lowest priced plan exceeds one-hundred dollars (\$100) per month, the City shall pay the difference. If an employee selects a plan other than the lowest priced plan, the employee shall pay the difference between the total cost of the selected plan and the City's contribution towards the lowest priced plan.

11.1.3 Effective at the beginning of pay period one (1) of payroll calendar year 2008, the City will pay ninety percent (90%) of the full premium cost of the lowest cost plan for employee or for employee and dependent coverage, and the employee will pay ten percent (10%) of the premium for the lowest priced plan up to a maximum of one-hundred fifty dollars (\$150) per month. If the employee's 10% contribution for the lowest priced plan exceeds one-hundred fifty dollars (\$150) per month, the City shall pay the difference. If an employee selects a plan other than the lowest priced plan, the employee shall pay the difference between the total cost of the selected plan and the City's contribution towards the lowest priced plan.

11.1.4 Effective at the beginning of pay period one (1) of payroll calendar year 2009, the City will pay ninety percent (90%) of the full premium cost of the lowest cost plan for employee or for employee and dependent coverage, and the employee will pay ten percent (10%) of the premium for the lowest priced plan. If an employee selects a plan other than the lowest priced plan, the employee shall pay the difference between the total cost of the selected plan and the City's contribution towards the lowest priced plan.

11.1.5 Effective January 1, 2008, co-pays for all available HMO plans shall be as follows:

- a. Office Visit Co-pay: \$10
- b. Prescription Co-pay: \$5 for generic and \$10 for brand name (The Blue Shield HMO will continue to include \$15 non-formulary drug co-pay.)
- c. Emergency Room Co-pay: \$50

11.2 Dental Insurance

11.2.1 The City will provide dental coverage for eligible full-time employees and their dependents. As of the date of this Agreement the plans include an indemnity plan and a DHMO plan. These plans are described in the City of San Jose Employee Benefits Handbook and in pamphlets available in the Human Resources Department.

11.2.2 The City will provide dental coverage in the lowest priced plan for eligible full-time employees and their dependents. If an employee selects a plan other than the lowest priced plan, the City will pay ninety-five percent (95%) of the full premium cost for the selected dental coverage for eligible full time employees and their dependents and the employee shall pay five percent (5%) of the full premium cost for the selected plan. As of the date of this Agreement the plans include an indemnity plan and a DHMO plan. These plans are described in the City of San Jose Employee Benefits Handbook and in pamphlets available in the Human Resources Department.

ARTICLE 12 RETIREE HEALTHCARE FUNDING

- 12.1 The City and the Employee Organization agree to transition from the current partial pre-funding of retiree medical and dental healthcare benefits (referred to as the "policy method") to pre-funding of the full Annual Required Contribution (ARC) for the retiree healthcare plan ("Plan"). The transition shall be accomplished by phasing into fully funding the ARC over a period of five (5) years beginning June 28, 2009. The Plan's initial unfunded retiree healthcare liability shall be fully amortized over a thirty year period so that it shall be paid by June 30, 2039 (closed amortization). Amortization of changes in the unfunded retiree healthcare liability other than the initial retiree healthcare liability (e.g. gains, losses, changes in actuarial assumptions, etc.) shall be determined by the Plan's actuary. The City and Plan members (active employees) shall contribute to funding the ARC in the ratio currently provided under Section 3.28.380 (C) (1) and (3) of the San Jose Municipal Code. Specifically, contributions for retiree medical benefits shall be made by the City and members in the ratio of one-to-one. Contributions for retiree dental benefits shall be made by the City and members in the ratio of eight-to-three. When determining the contribution rates for the Plan, the Plan actuary shall continue to use the Entry Age Normal (EAN) actuarial cost method and a discount rate consistent with the pre-funding policy for the Plan as outlined in this Article.
- 12.2 The City and the Employee Organization further agree that the Municipal Code and/or applicable plan documents shall be amended in accordance with the above agreement and that the Employee Organization will support such amendments.
- 12.3 It is understood that in reaching this agreement, the parties have been informed by cost estimates prepared by the Federated City Employees' Retirement System Board's actuary and that the actual contribution rates to reach full pre-funding of retiree healthcare will differ. The phase-in to the ARC shall be divided into five steps (using a straight line method), each to be effective on the first pay period of the City's fiscal year in each succeeding year. The first increment of the phase-in shall be effective on June 28, 2009. It is understood that because of changes resulting from future actuarial valuations, the amount of each increase may vary upward or downward. The City and Employee Organization agree that the Plan member cash contribution rate shall not have an incremental increase of more than .75% of pensionable pay in each fiscal year and the City cash contribution rate shall not have an incremental increase of more than .75% of pensionable pay in each fiscal year. For example, if the members' contribution rate is 4% of pensionable pay, the subsequent fiscal year's contribution rate for retiree healthcare cannot exceed 4.75% of pensionable pay. Notwithstanding the limitations on the incremental increases, by the end of the five year phase-in, the City and plan members shall be contributing the full Annual Required Contribution in the ratio currently provided under Section 3.28.380 (C) (1) and (3) of the San Jose Municipal Code.
- 12.4 The City will establish a qualified trust ("Trust") before June 27, 2010. Until such time as a Trust is established, the City and employee contributions under this agreement shall be made into the existing Medical Benefits Account for as long the contributions can be made into the Medical Benefits Account in accordance with IRS limitations. If the Trust is not established prior to reaching the IRS limitation, the parties agree to meet and discuss alternative funding vehicles.

- 12.5 It is the objective of the parties that the Trust created pursuant to this agreement shall become the sole funding vehicle for Federated retiree healthcare benefits, subject to any legal restrictions under the current plan, or other applicable law.

ARTICLE 13 SAFETY

- 13.1 The City shall provide a safe and healthy working environment in accordance with applicable Local, State and Federal laws and regulations.
- 13.2 Any employee who believes a violation exists may request that the City make a determination as to the safeness of the work assignment and further, be protected under the Cal/OSHA regulations, including but not limited to Labor Code Section 6311.

ARTICLE 14 PERSONAL PROTECTIVE EQUIPMENT

- 14.1 The City agrees to make available all required personal protective equipment when needed during the normal course of work (i.e., protective eyewear, protective footwear) in compliance with Cal-OSHA regulations and upon approval of the Department Director or designee.
- 14.2 The requirements for safe working conditions are established and maintained under the California Occupational Safety and Health Act of 1973. Enforcement and rule-making authority is lodged with the Department of Industrial Safety. The Department of Industrial Safety has jurisdiction for inspection and enforcement of standards; therefore, any disputes arising relating to employee safety will be exempted from the grievance procedure.

ARTICLE 15 PROBATIONARY PERIODS

- 15.1 Probationary Period Calculation. Probationary periods shall not be less than six (6) months of actual service as determined by the Civil Service Commission. Actual service shall mean regular hours worked, paid holidays and up to 80 hours of other cumulative or consecutive paid or unpaid absences.
- 15.2 An employee's probationary period may be extended at the discretion of the City up to a maximum of six (6) months of actual and continuous service. The employee will be notified in writing of the length and reason for the extension.

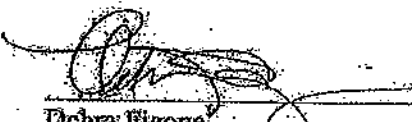
ARTICLE 16 ANNUAL PERFORMANCE APPRAISAL

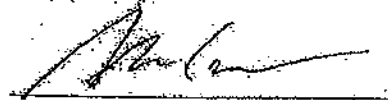
- 16.1 The purpose of the annual performance appraisal is to have formal communication between supervisor and employee regarding job performance. It is of value to both parties to have this process be meaningful and fair. Employees shall receive an annual performance appraisal.

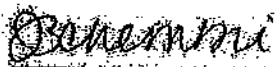
THIS AGREEMENT executed on the 30th day of June, 2010, between the City of San Jose and The Association of Engineers and Architects, International Federation of Professional and Technical Engineers, Local 21 (Unit 41/42), IN WITNESS THEREOF, the appropriate representatives of the parties have affixed their signature thereto.

This Memorandum of Agreement was approved by the City Council of the City of San Jose on June 22, 2010, and ratified by the Association of Engineers and Architects, IEPTE Local 21 on June 21, 2010.

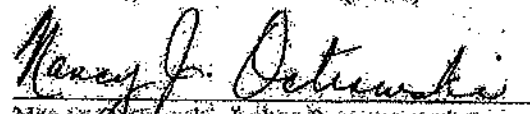
For The City of San Jose:

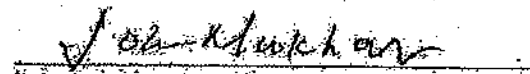

Debra Figone
City Manager


Alex Gurza
Director of Employee Relations


Jennifer Schembri, Lead Negotiator
Senior Executive Analyst

For The Association of Engineers and Architects, IEPTE Local 21 (AEA):


Nancy Ostrowski, Labor Representative
AEA/IEPTE, Local 21


John Muckar, President
AEA/IEPTE, Local 21

Memorandum of Agreement

City of San José

and

**Association of Engineers and Architects (AEA)
International Federation of Professional and
Technical Engineers, Local 21
AFL-CIO
Unit 043**



July 1, 2010 – June 30, 2011

GURZA000164

Association of Engineers and Architects,
International Federation of Professional and Technical Engineers, Local 21
Unit 043

Memorandum of Agreement

July 1, 2010 through June 30, 2011

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EXHIBIT I Job Classifications

- 9.6.2 In the event an employee accepts reinstatement to a lower class to which he/she is entitled, such person's name shall remain on the Reinstatement Eligible List for reinstatement to a lateral class, provided such person, except for lack of seniority, would have been otherwise entitled to such lateral class at the time of the most recent layoff.
- 9.6.3 Any person who is reinstated to a class which is the highest class to which he/she would have been entitled at the time of the layoff shall have his/her name removed from the Reinstatement Eligible List.
- 9.6.4 In the event a person on layoff cannot be contacted by the City through usual and customary channels, including, but not limited to emails, phone calls or regular mail within ten (10) working days, such person's name shall be removed from the Reinstatement Eligible List, providing, however, that such person within the three (3) year period specified herein may request that his/her name be replaced on the Reinstatement Eligible List and such person's name may, in the sole discretion of the Director of Human Resources or his/her designee, be returned to the Reinstatement Eligible List. It shall be the responsibility of each person placed on the Reinstatement Eligible list to notify the Department of Human Resources of changes in contact information including, but not limited to email address, phone number or mailing address.
- 9.6.5 In no event shall the names of any person laid off pursuant to the provisions of this Article remain on a Reinstatement Eligible List for a period longer than three (3) years from the effective date of such person's most recent layoff. If there are employees on a Reinstatement Eligible List, the City will review such list prior to contracting-out work, or hiring outside work, to determine if the work could be performed by someone on the Reinstatement Eligible List.
- 9.6.6 Upon reinstatement to any classification to which the employee is entitled pursuant to the provisions of this Article, all benefits acquired by the employee prior to his/her layoff shall also be reinstated. An employee shall not receive credit for time spent on layoff in computing time for any benefit entitlement.

ARTICLE 10 WAGES AND SPECIAL PAY

10.1 Salary Ranges/Additional Retirement Contributions

- 10.1.1 On-Going Additional Retirement Contributions. Effective June 27, 2010, all employees who are members of the Federated City Employees' Retirement System will make additional retirement contributions in the amount of 7.30% of pensionable compensation, and the amounts so contributed will be applied to reduce the contributions that the City would otherwise be required to make for the pension unfunded liability, which is defined as all costs in both the regular retirement fund and the cost-of-living fund, except current service normal costs in those funds. This additional employee retirement contribution would be in addition to the employee retirement contribution rates that have been approved by the Federated City Employees' Retirement System Board. The intent of this

additional retirement contribution by employees is to reduce the City's required pension retirement contribution rate by a commensurate 7.30% of pensionable compensation, as illustrated below:

Federated			
	City	Employee	Total
Current Contribution Rates	29.59%	10.30%	39.89%
Contribution Rates With Additional Employee Contributions	22.29%	17.60%	39.89%

Note: Additional contributions made by employees do not affect the retiree healthcare rates.

10.1.2 One-Time Additional Retirement Contributions (Fiscal Year 2010-2011). In addition to the retirement contributions specified above, effective June 27, 2010, through June 25, 2011, all employees will make an additional retirement contribution in the amount of 3.53% of pensionable compensation, and the amounts so contributed will be applied to reduce the contributions that the City would otherwise be required to make during that time period for the pension unfunded liability, which is defined as all costs in both the regular retirement fund and the cost-of-living fund, except current service normal costs in those funds. This additional employee retirement contribution would be in addition to the employee retirement contribution rates that have been approved by the Federated City Employees' Retirement System Board.

10.1.3 Treatment of Additional Employee Contributions. Both the on-going and the one-time additional retirement contributions shall be treated in the same manner as any other employee contributions. Accordingly, the intent of these additional payments will be made on a pre-tax basis through payroll deductions pursuant to IRS Code Section 414(h)(2) and will be subject to withdrawal, return and redeposit in the same manner as any other employee contributions.

10.1.4 Implementation of Additional Retirement Contributions and Missed Contributions. It is the intent of the parties that the employees pay the entire annual amount of the additional retirement contributions for the 2010-2011 Fiscal Year. Since the additional on-going and one-time employee contributions will not be implemented by June 27, 2010, when the additional employee contributions are implemented in the City's payroll system the Finance Department will compute the rate that will generate the total amount of additional retirement contributions over the remaining pay periods in the fiscal year as if the contribution rate had been implemented on June 27, 2010.

For example, if the additional contributions do not begin until August 22, 2010 (pay period #18) the additional employee contributions for each of the subsequent pay periods in the 2010-2011 Fiscal Year will be recalculated by the Finance Department so that 100% of the additional employee contributions are made by the end of the fiscal year.

The parties understand that in order to implement this provision, an amendment must be made to the Federated City Employees' Retirement System that requires an ordinance amending the San Jose Municipal Code. In addition, the parties understand that the City will request that the Federated City Employees' Retirement System Board have its actuary confirm that an increase of the employee contribution will reduce the City's contribution rate by a commensurate amount.

10.1.5 Contingency Provision. In the event that the additional employee retirement contributions described above are not implemented for any reason by October 1, 2010, or the Federated City Employees' Retirement System Board's actuary concludes that the City's contribution rate could not be reduced by a commensurate amount, the equivalent amount of total compensation shall be taken as a base pay reduction and will increase on a pro-rata basis over the remaining pay periods in the fiscal year to achieve the equivalent total compensation reduction.

In the event that the additional employee retirement contributions described above are ceased for any reason thereafter, or the Federated City Employees' Retirement System Board's actuary concludes that the City's contribution rate could not be reduced by the commensurate amount after beginning such deductions, the equivalent amount of total compensation shall be taken as a base pay reduction.

10.1.6 Balance to Equal 10% of Total Compensation. Effective June 27, 2010 through June 25, 2011, all employees shall receive a 2.80% temporary base pay reduction. This will result in the top and bottom steps of the range being 2.80% lower.

10.2 Bilingual Pay

10.2.1 An employee must meet at least one of the following eligibility requirements and must be certified as bilingual for oral communication, written translation or sign language duties according to the current established procedure.

10.2.1.1 The employee is currently assigned to a position selectively certified based on bilingual ability by the Director of Human Resources, or his/her designee, or

10.2.1.2 The duties currently assigned and currently being performed by an employee have been designated by the Department Director or his/her designee as requiring utilization of a non-English language on a regular basis.

10.2.2 Each full-time employee who meets the above eligibility requirements shall be compensated for performing oral communication or sign language duties at the rate of \$29.00 per biweekly pay period and for performing written translation duties at the rate of \$40.00 per biweekly pay period for each pay period actually worked.

10.2.3 Each part-time employee who meets the above eligibility requirements shall be compensated for performing oral communication or sign language duties at the rate of \$19.00 per biweekly pay period and for performing written translation duties at the rate of \$30.00 per biweekly pay period for each pay period actually worked.

10.2.4 If an eligible employee is on paid leave for a period of one full pay period or more, the employee will not receive bilingual pay for that period.

10.3 Working in a Higher Classification

10.3.1 Upon specific written assignment by the Department Director, or his/her designated representative, with prior written approval, a full-time employee may be required to perform the duties of a full-time position in a higher classification. Such assignments shall be made to existing authorized positions that are not actively occupied due to the temporary absence of the regularly appointed employee.

10.3.2 As an alternative to making appointments to vacant positions, a Department may, upon the approval of the Office of the City Manager, assign an employee to work in a higher classification for a period of time not to exceed twelve (12) months. At the expiration of the assignment (not to exceed twelve months), the assigned employee shall return to his/her regular assignment. The Department may then request authorization to fill the position on a regular basis or return it to vacant status.

10.3.3 Employees specifically assigned in writing to duties of a higher classification as specified above shall be compensated at the rate in the salary range of the higher class, which is at least two (2) salary rates (steps) higher in the salary range schedule, approximately equal to five percent (5%) higher than the rate received by the employee in the employee's present class. The employee shall not receive the rate of compensation, however, unless the assignment is for a minimum of three (3) consecutive months.

10.4 Mileage Reimbursement Each employee of the City who is authorized by the Department Director or designee to use the employee's private automobile in the performance of the duties of the employee's position, shall be paid as a travel allowance for such use of his/her private automobile a "mileage reimbursement rate" consistent with the City's rate.

ARTICLE 11 BENEFITS

11.1 Health Insurance

11.1.1 The City will provide health coverage for eligible full-time employees and their dependents in accordance with one of the available plans.

11.1.2 Effective at the beginning of pay period one (1) of payroll calendar year 2007, The City will pay ninety percent (90%) of the full premium cost of the lowest cost plan for employee or for employee and dependent coverage, and the employee will pay ten percent (10%) of the premium for the lowest priced plan up to a maximum of one-hundred dollars (\$100) per month. If the employee's 10% contribution for the lowest priced plan exceeds one-hundred dollars (\$100) per month, the City shall pay the difference. If an employee selects a plan other than the lowest priced plan, the employee shall pay the difference between the total cost of the selected plan and the City's contribution towards the lowest priced plan.

11.1.3 Effective at the beginning of pay period one (1) of payroll calendar year 2008, The City will pay ninety percent (90%) of the full premium cost of the lowest cost plan for employee or for employee and dependent coverage, and the employee will pay ten percent (10%) of the premium for the lowest priced plan up to a maximum of one-hundred fifty dollars (\$150) per month. If the employee's 10% contribution for the lowest priced plan exceeds one-hundred fifty dollars (\$150) per month, the City shall pay the difference. If an employee selects a plan other than the lowest priced plan, the employee shall pay the difference between the total cost of the selected plan and the City's contribution towards the lowest priced plan.

11.1.4 Effective at the beginning of pay period one (1) of payroll calendar year 2009, the City will pay ninety percent (90%) of the full premium cost of the lowest cost plan for employee or for employee and dependent coverage, and the employee will pay ten percent (10%) of the premium for the lowest priced plan. If an employee selects a plan other than the lowest priced plan, the employee shall pay the difference between the total cost of the selected plan and the City's contribution towards the lowest priced plan.

11.1.5 Effective January 1, 2008, co-pays for all available HMO plans shall be as follows:

- a. Office Visit Co-pay: \$10
- b. Prescription Co-pay: \$5 for generic and \$10 for brand name. (The Blue Shield HMO will continue to include \$15 non-formulary drug co-pay.)
- c. Emergency Room Co-pay: \$50

11.7 Training

11.7.1 The City and the Union recognize the importance of continuing education and the diverse training needs of the employees represented by the Association of Engineers and Architects. Therefore, the City shall endeavor to provide employees a minimum of twenty-four (24) hours of training per fiscal year. This goal will be accomplished through trainings mandated by Departments and the City.

11.7.2 The Union may make recommendations regarding training needs and advise department management and the Union/City Committee of specific training opportunities.

11.8 Professional Memberships Each employee is eligible for reimbursement for membership fees or dues paid for the maintenance of a license required to perform employee's job and for dues paid for membership in one additional job related professional association.

11.9 Management Performance Program Employees represented by AEA, IFPTE Local 21 are covered under the Management Performance Program, Section 3.3.2 of the City Policy Manual. Employees are eligible for performance-based pay increases as outlined in the Management Performance Program, Section 3.3.2 of the City Policy Manual.

ARTICLE 12 RETIREE HEALTHCARE FUNDING

12.1 The City and the Employee Organization agree to transition from the current partial pre-funding of retiree medical and dental healthcare benefits (referred to as the "policy method") to pre-funding of the full Annual Required Contribution (ARC) for the retiree healthcare plan ("Plan"). The transition shall be accomplished by phasing into fully funding the ARC over a period of five (5) years beginning June 28, 2009. The Plan's initial unfunded retiree healthcare liability shall be fully amortized over a thirty year period so that it shall be paid by June 30, 2039 (closed amortization). Amortization of changes in the unfunded retiree healthcare liability other than the initial retiree healthcare liability (e.g. gains, losses, changes in actuarial assumptions, etc.) shall be determined by the Plan's actuary. The City and Plan members (active employees) shall contribute to funding the ARC in the ratio currently provided under Section 3.28.380 (C) (1) and (3) of the San Jose Municipal Code. Specifically, contributions for retiree medical benefits shall be made by the City and members in the ratio of one-to-one. Contributions for retiree dental benefits shall be made by the City and members in the ratio of eight-to-three. When determining the contribution rates for the Plan, the Plan actuary shall continue to use the Entry Age Normal (EAN) actuarial cost method and a discount rate consistent with the pre-funding policy for the Plan as outlined in this Article.

12.2 The City and the Employee Organization further agree that the Municipal Code and/or applicable plan documents shall be amended in accordance with the above agreement and that the Employee Organization will support such amendments.

12.3 It is understood that in reaching this agreement, the parties have been informed by cost estimates prepared by the Federated City Employees' Retirement System Board's actuary

and that the actual contribution rates to reach full pre-funding of retiree healthcare will differ. The phase-in to the ARC shall be divided into five steps (using a straight line method), each to be effective on the first pay period of the City's fiscal year in each succeeding year. The first increment of the phase-in shall be effective on June 28, 2009. It is understood that because of changes resulting from future actuarial valuations, the amount of each increase may vary upward or downward. The City and Employee Organization agree that the Plan member cash contribution rate shall not have an incremental increase of more than .75% of pensionable pay in each fiscal year and the City cash contribution rate shall not have an incremental increase of more than .75% of pensionable pay in each fiscal year. For example, if the members' contribution rate is 4% of pensionable pay, the subsequent fiscal year's contribution rate for retiree healthcare cannot exceed 4.75% of pensionable pay. Notwithstanding the limitations on the incremental increases, by the end of the five year phase-in, the City and plan members shall be contributing the full Annual Required Contribution in the ratio currently provided under Section 3.28.380 (C) (1) and (3) of the San Jose Municipal Code.

- 12.4 The City will establish a qualified trust ("Trust") before June 27, 2010. Until such time as a Trust is established, the City and employee contributions under this agreement shall be made into the existing Medical Benefits Account for as long the contributions can be made into the Medical Benefits Account in accordance with IRS limitations. If the Trust is not established prior to reaching the IRS limitation, the parties agree to meet and discuss alternative funding vehicles.
- 12.5 It is the objective of the parties that the Trust created pursuant to this agreement shall become the sole funding vehicle for Federated retiree healthcare benefits, subject to any legal restrictions under the current plan, or other applicable law.

ARTICLE 13 SAFETY

- 13.1 The City shall provide a safe and healthy working environment in accordance with applicable Local, State and Federal laws and regulations.
- 13.2 Any employee who believes a violation exists may request that the City make a determination as to the safeness of the work assignment and further, be protected under the Cal/OSHA regulations, including but not limited to Labor Code Section 6311.


ARTICLE 14 PERSONAL PROTECTIVE EQUIPMENT

- 14.1 The City agrees to make available all required personal protective equipment when needed during the normal course of work (i.e., protective eyewear, protective footwear) in compliance with Cal-OSHA regulations and upon approval of the Department Director or designee.
- 14.2 The requirements for safe working conditions are established and maintained under the California Occupational Safety and Health Act of 1973. Enforcement and rule-making authority is lodged with the Department of Industrial Safety. The Department of Industrial Safety has jurisdiction for inspection and enforcement of standards; therefore,


THIS AGREEMENT executed on the 30th day of June, 2010 between the City of San Jose and The Association of Engineers and Architects, International Federation of Professional and Technical Engineers, Local 21 (Unit 43), IN WITNESS THEREOF, the appropriate representatives of the parties have affixed their signature thereto.

This Memorandum of Agreement was approved by the City Council of the City of San Jose on June 22, 2010, and ratified by the Association of Engineers and Architects, IFPTE Local 21 on June 21, 2010.

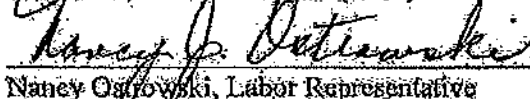
For The City of San Jose:


Debra Figone
City Manager


Alex Gurza
Director of Employee Relations


Jennifer Schembri, Lead Negotiator
Senior Executive Analyst

For The Association of Engineers and Architects, IFPTE Local 21 (AEA):


Nancy Ostrowski, Labor Representative
AEA/IFPTE, Local 21

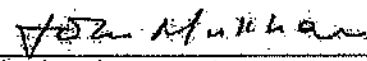

John Mukhar, President
AEA/IFPTE, Local 21

EXHIBIT 12

RESOLUTION NO. 75777

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSÉ APPROVING AGREEMENTS WITH THE ASSOCIATION OF ENGINEERS AND ARCHITECTS, INTERNATIONAL FEDERATION OF PROFESSIONAL AND TECHNICAL ENGINEERS, LOCAL 21, UNITS 041/042 AND UNIT 043, WITH TERMS OF JULY 1, 2011 – JUNE 30, 2013

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SAN JOSÉ:

1. That the Tentative Agreement between the City of San José and the Association of Engineers and Architects, International Federation of Professional and Technical Engineers, Local 21, Units 041/042, with a term of July 1, 2011 – June 30, 2013, is hereby approved.
2. That the Tentative Agreement between the City of San José and the Association of Engineers and Architects, International Federation of Professional and Technical Engineers, Local 21, Unit 043, with a term of July 1, 2011 – June 30, 2013, is hereby approved.
3. The general terms of the Tentative Agreements are set out and described in the Memorandum to the Mayor and City Council from the Director of Employee Relations, dated April 5, 2011, and attached hereto as Attachment A and incorporated in this Resolution. The City Manager is hereby authorized to execute agreements with those terms on behalf of the City of San José


ADOPTED this 19th day of April, 2011, by the following vote:

AYES: CAMPOS, CHU, CONSTANT, HERRERA, KALRA,
NGUYEN, OLIVERIO, PYLE, ROCHA; REED.

NOES: LICCARDO.

ABSENT: NONE.

DISQUALIFIED: NONE.



CHUCK REED
Mayor

ATTEST:



DENNIS D. HAWKINS, CMC
City Clerk

ATTACHMENT A



COUNCIL AGENDA: 04-19-11
ITEM: 3.3

Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Alex Gurza

SUBJECT: SEE BELOW

DATE: April 5, 2011

Approved: 

Date: 4/5/11

SUBJECT: APPROVAL OF THE TERMS OF AN AGREEMENT WITH THE ASSOCIATION OF ENGINEERS AND ARCHITECTS, INTERNATIONAL FEDERATION OF PROFESSIONAL AND TECHNICAL ENGINEERS, LOCAL 21, UNITS 41/42 AND UNIT 43 (AEA)

COUNCIL DISTRICT: N/A
SNI AREA: N/A

RECOMMENDATION

Adoption of a resolution:

- (a) To approve the terms of a collective bargaining agreement between the City and the Association of Engineers and Architects, International Federation of Professional and Technical Engineers, Local 21, Units 041 and 042, and authorizing the City Manager to execute an agreement with a term of July 1, 2011, through June 30, 2013.
- (b) To approve the terms of a collective bargaining agreement between the City and the Association of Engineers and Architects, International Federation of Professional and Technical Engineers, Local 21, Unit 043, and authorizing the City Manager to execute an agreement with a term of July 1, 2011, through June 30, 2013.

OUTCOME

Adoption of the resolution and authorization to execute an agreement would result in collective bargaining unit agreements between the City of San Jose and the Association of Engineers and Architects, International Federation of Professional and Technical Engineers, Local 21, Units 41/42 and Unit 43 (AEA) for the period of July 1, 2011, through June 30, 2013.

EXECUTIVE SUMMARY

The City of San Jose and the Association of Engineers and Architects, International Federation of Professional and Technical Engineers, Local 21, Units 41/42 and Unit 43 reached Tentative

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Agreements on March 23, 2011, for Memoranda of Agreement (MOA) for the period of July 1, 2011, through June 30, 2013. The Tentative Agreements were ratified by the memberships on March 28, 2011.

The City Administration is recommending approval of the Tentative Agreements for MOAs for the period of July 1, 2011, to June 30, 2013. The agreements achieve a ten percent (10%) ongoing total compensation reduction (base pay and healthcare changes), changes in the disability leave supplement and vacation sickback programs, and sick leave to continue negotiations on several reforms to include retirement for current and new employees, sick leave payout, Supplemental Retiree Benefit Reserve (SRBR), layoff procedures, subsidy for Public Transit, and contracting out.

BACKGROUND

In November 2010, the City Council in open session approved a goal of reducing the total ongoing employee compensation for all City employees by ten percent (10%). "Total compensation" is the total cost to the City of pay and benefits, including base pay, retirement contributions, health insurance and other benefits. Total compensation is calculated using budgeted salary and fringe benefit costs for the bargaining unit.

In addition to the 10% ongoing total compensation reduction approved in November 2010, the City Council approved the following reforms: retirement reform, including 2nd tier pension and retiree healthcare benefits for new hires; options for current employees; SRBR or "13th Check;" sick leave payout; disability leave supplement; vacation sickback and compensation structure.

The Association of Engineers and Architects, International Federation of Professional and Technical Engineers, Local 21, Units 41/42 and Unit 43, hereafter referred to as "AEA," represents approximately 200 full time budgeted positions in Fiscal Year 2010-2011. Those bargaining units include employees in the classifications of Architect/Landscape Architect I/II, Assistant Engineer, Engineer I/II, Sanitary Engineer, Structure/Landscape Designer I/II, Engineering Geologist, Senior Architect/Landscape Architect and Senior Engineer.

In June 2010, AEA agreed to a 10% total compensation reduction. The first 5% ongoing reduction was achieved through additional retirement contributions to be made by employees represented by AEA to offset the City's retirement costs. The second 5% one-time total compensation reduction was achieved through additional retirement contributions and a base pay reduction. The ongoing and one-time additional retirement contributions made by employees represented by AEA to offset the City's retirement costs and the one-time base pay reduction will cease effective June 25, 2011, and the terms of the new agreements will replace the total compensation reduction on an ongoing basis.

The AEA agreements expire on June 30, 2011. The City commissioned negotiations for successor Memoranda of Agreement (MOA) with five (5) bargaining units (including AEA) in January 2011. The City and AEA, along with two (2) other bargaining units, reached a Tentative Agreement on March 23, 2011, that achieves a 10% ongoing total compensation reduction and includes agreements to continue negotiations on other reforms that were approved by the City Council as listed above. The Tentative Agreements were ratified by the AEA membership on March 28, 2011.

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ANALYSIS

A complete copy of the Tentative Agreements are attached. The following is a summary of the key provisions:

Term	July 1, 2011 -- June 30, 2013									
Base Pay Reduction -- Ongoing	Effective June 26, 2011, all salary ranges for employees represented by ABA shall be decreased by approximately 10.1%. All employees represented by ABA shall receive a 10.1% base pay reduction. Effective June 25, 2011, the City will cease one-time and ongoing additional employee retirement contributions that offset the City's retirement contribution rates and stop one-time base rate concessions made in Fiscal Year 2010-2011.									
Healthcare Cost Sharing	Currently, the City pays ninety percent (90%) of the full premium cost of the lowest cost plan for employee or for employee and dependent coverage, and the employee pays ten percent (10%) of the premium for the lowest priced plan for employee or employee and dependent coverage. Effective pay date July 1, 2011, the City will pay eighty-five percent (85%) of the full premium cost of the lowest cost plan for employee or for employee and dependent coverage, and the employee will pay fifteen percent (15%) of the premium for the lowest priced plan for employee or employee and dependent coverage.									
Healthcare HMO Plan Design	The current HMO Plan Design provides for \$10 office visit co-pay, \$5 generic and \$10 brand name prescription co-pay, and a \$50 emergency room co-pay. Effective pay date July 1, 2011, a \$25 co-pay plan shall be implemented for all HMO plans, including the following changes: <ul style="list-style-type: none">a. \$25 office visit co-payb. \$10 generic/\$25 brand name prescription co-payc. \$100 emergency room co-payd. \$100 inpatient/outpatient procedure co-pay									
Healthcare Payment-In-Lieu	Currently, employees who have other health and/or dental coverage are eligible for a health-in-lieu and/or dental-in-lieu amount of fifty percent (50%) of the City's premium. This results in a formula that increases as the City's costs towards healthcare increases. The current in-lieu amounts are as follows: <table><tr><td></td><td><u>Health-In-Lieu</u></td><td><u>Dental-In-Lieu</u></td></tr><tr><td>If eligible for family coverage;</td><td>\$272.74</td><td>\$23.75</td></tr><tr><td>If NOT eligible for family coverage;</td><td>\$109.54</td><td>\$23.75</td></tr></table>		<u>Health-In-Lieu</u>	<u>Dental-In-Lieu</u>	If eligible for family coverage;	\$272.74	\$23.75	If NOT eligible for family coverage;	\$109.54	\$23.75
	<u>Health-In-Lieu</u>	<u>Dental-In-Lieu</u>								
If eligible for family coverage;	\$272.74	\$23.75								
If NOT eligible for family coverage;	\$109.54	\$23.75								

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Effective pay date July 1, 2011, employees who qualify for and participate in payment-in-lieu of health and/or dental insurance program will receive the following per pay period:

	<u>Health-In-Lieu</u>	<u>Dental-In-Lieu</u>
If eligible for family coverage:	\$221.84	\$19.95
If NOT eligible for family coverage:	\$89.09	\$19.95

A City employee who receives healthcare coverage as a dependant of another City employee or retiree shall be deemed not eligible for family coverage.

Healthcare Dual Coverage Effective pay date July 1, 2011, employees may no longer be simultaneously covered by City-provided medical and/or dental benefits as a City employee and as a dependant of another City employee or retiree.

Vacation Sellback Effective December 25, 2011, reduce vacation sellback eligibility from a maximum of 120 hours to a maximum of 60 hours for AEA (Unit 43), and from a maximum of 96 hours to a maximum of 48 hours for AEA (Unit 41/42). Employees must submit an irrevocable election form to Payroll on or before November 26, 2011, to be eligible to sell back accrued vacation in 2012.

Effective the first pay period of payroll calendar year 2013, the vacation sellback program will be eliminated and no employees will be eligible to sell back any accrued vacation hours.

Disability Leave Effective June 26, 2011, reduce the maximum disability supplemental pay benefit from nine (9) calendar months to three (3) calendar months (520 hours).

Effective June 24, 2012, disability leave supplement will be eliminated.

Employees will be allowed to integrate accrued vacation and accrued sick leave.

Side Letters

- Retirement Reform -- The City and AEA agree to continue meeting and conferring on pension and retiree healthcare benefits for current and future employees. The negotiations may include modification of healthcare (medical and dental) plans available to current employees, including but not limited to plan design.
- Sick Leave Payout -- The City and AEA agree to continue meeting and conferring on sick leave payout for current and future employees.
- Layoff -- Either the City or AEA may provide notice to the other of its request to meet and confer on modifications, if any, to the City's layoff process and procedures.

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- Supplemental Retiree Benefit Reserve (SRBR) - The City and AEA agree to discuss the SRBR program in the Federated City Employees' Retirement System.
- Subsidy for Public Transit - The City and AEA agree to discuss the programs available to employees that provide subsidy for public transit.
- Contracting Out - The City agrees to meet and confer with AEA prior to contracting out work currently performed by bargaining unit members whenever such contracting out would result in a material reduction of work or would have significant adverse impact on bargaining unit work.
- Grievances - AEA agrees to withdraw the grievance that was advanced to arbitration with regard to the additional retirement contributions as calculated by the City under the agreement reached between the City and AEA for Fiscal Year 2010-2011 with prejudice and forego any other remedy.
- Total Compensation - In the event the City reaches a settlement with any other employee unit covering the period of the agreement that has no ongoing total compensation reduction of less than ten percent (10%), in any form or manner, the agreement will reopen on the subject of total compensation and the parties will meet and confer to determine how the difference between a 10% ongoing total compensation reduction and the lesser amount agreed to with any other employee unit will be provided.

The provision will also apply in the event the City reaches a settlement which does not include the roll back of any general wage increases (not including step and/or merit increases), received by any employee unit in Fiscal Year 2010-2011.

This provision will not apply to any changes made to any employee unit which occurs as the result of an interest arbitration award.
- Vacation Rollback - In the event the City reaches a settlement with any other employee unit eligible to roll back earned vacation hours that does not eliminate the Vacation Rollback program effective the beginning of the first pay period of payroll calendar year 2013, absent other equivalent concessions received from such employee unit in lieu of eliminating Vacation Rollback, the agreement will reopen on the subject of Vacation Rollback.
- Disability Leave Supplemental (DLS) - In the event the City reaches a settlement with any other employee unit, excluding employees covered by Labor Code Section 4850, that does not eliminate DLS effective June 24, 2012, the agreement will reopen on the subject of DLS.

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EVALUATION AND FOLLOW-UP

None.

PUBLIC OUTREACH/INTEREST

- ☒ Criteria 1: Requires Council action on the use of public funds equal to \$1 million or greater. (Required: Website Posting)
- ☐ Criteria 2: Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. (Required: E-mail and Website Posting)
- ☐ Criteria 3: Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. (Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)

This item meets Criterion 1. This memorandum will be posted on the City's website for the April 19, 2011, Council Agenda.

COORDINATION

This memorandum was coordinated with the City Manager's Budget Office and the City Attorney's Office.

COST IMPLICATIONS

For Fiscal Year 2010-2011, AEA agreed to concessions that achieved a 10% total compensation reduction, 5% ongoing and 5% one-time. These concessions included ongoing and one-time additional retirement contributions to offset the City's retirement costs and a base pay reduction. Effective June 25, 2011, the concessions agreed to in Fiscal Year 2010-2011 will cease and will be replaced with the concessions in the new agreement.

The terms of the Tentative Agreement, which make the 5% one-time total compensation reduction ongoing, generate additional ongoing savings of approximately \$1.7 million in all funds and approximately \$300,000 in the General Fund. These savings are based on the 2011-2012 Base Budget as of April 4, 2011. These savings do not assume any recommended reductions in AEA positions, adjustments necessary to maintain the annual required retirement contributions, and the associated loss of overhead from other funds as well as associated loss of fees and charges revenue that will likely be included as part of the Proposed and Adopted Budget process. The budgetary savings will be assumed in the 2011-2012 Proposed Operating Budget scheduled for release in May.

RD:EJM
4/7/11

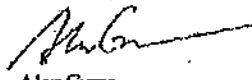
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2, 2011. These savings do not include the currently unknown cost increases for healthcare for the second half of Fiscal Year 2011-2012.

CKOA

CKQA: Not a Project, File No. PP10-069(h), Personnel Related Decisions.



Alex Gurza
Director of Employee Relations

For questions please contact Alex Gurza, Director of Employee Relations, at (408) 535-8150.

Attachment

Memorandum of Agreement

City of San José

and

**Association of Engineers and Architects (AEA)
International Federation of Professional and
Technical Engineers, Local 21
AFL-CIO
Units 041 and 042**



July 1, 2011 – June 30, 2013

**Association of Engineers and Architects,
International Federation of Professional and Technical Engineers, Local 21
Units 041 and 042
Memorandum of Agreement**

July 1, 2011 through June 30, 2013

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3.1.3 It is the intent of the parties that ordinances, resolutions, rules and regulations enacted pursuant to this Memorandum of Agreement be administered and observed in good faith.

3.1.4 Although nothing in this Agreement shall preclude the parties from mutually agreeing to meet and confer on any subject within the scope of representation during the term of this Agreement, it is understood and agreed that neither party may require the other party to meet and confer on any subject matter covered herein or with respect to any other matter within the scope of representation during the term of this Agreement.

3.1.5 Reopener

3.1.5.1 Total Compensation. In the event that the City reaches a settlement with any other employee unit covering the time period of this Agreement that has an ongoing total compensation reduction of less than ten percent (10%), in any form or manner, this agreement will reopen on the subject of total compensation and the parties will meet and confer to determine how the difference between a 10% ongoing total compensation reduction and the lesser amount agreed to with any other employee unit will be provided.

This provision will also apply in the event the City reaches a settlement which does not include the roll back of any general wage increase (not including any step and/or merit increases), as authorized by the City Council on November 25, 2010, received by any employee unit in Fiscal Year 2010-2011.

This provision will not apply to any changes made to any employee unit which occurs as the result of an interest arbitration award that is the result of contested issues resolved only via a full evidentiary hearing and substantive briefing.

3.1.5.2 Vacation Sellback. In the event the City reaches a settlement with any other employee unit eligible to sell back accrued vacation hours that does not eliminate the Vacation Sellback program effective the beginning of the first pay period of payroll calendar year 2013, absent other equivalent concessions received from such employee unit in lieu of eliminating Vacation Sellback, this agreement will reopen on the subject of Vacation Sellback and the parties will meet and confer to determine the provisions of the Vacation Sellback program for payroll calendar year 2013.

3.1.5.3 Disability Leave Supplement (DLS). In the event the City reaches a settlement with any other employee unit, excluding any employees covered by Labor Code Section 4850, that does not eliminate DLS effective June 24, 2012, this agreement will reopen on the subject of DLS and the parties will meet and confer to determine the provisions of the

- 9.6.4 In the event a person on layoff cannot be contacted by the City through usual and customary channels, including, but not limited to emails, phone calls or regular mail within ten (10) working days, such person's name shall be removed from the Reinstatement Eligible List, providing, however, that such person within the three (3) year period specified herein may request that his/her name be replaced on the Reinstatement Eligible List and such person's name may, in the sole discretion of the Director of Human Resources or his/her designee, be returned to the Reinstatement Eligible List. It shall be the responsibility of each person placed on the Reinstatement Eligible list to notify the Department of Human Resources of changes in contact information including, but not limited to email address, phone number or mailing address.
- 9.6.5 In no event shall the names of any person laid off pursuant to the provisions of this Article remain on a Reinstatement Eligible List for a period longer than three (3) years from the effective date of such person's most recent layoff. If there are employees on a Reinstatement Eligible List, the City will review such list prior to contracting-out work, or hiring outside work, to determine if the work could be performed by someone on the Reinstatement Eligible List.
- 9.6.6 Upon reinstatement to any classification to which the employee is entitled pursuant to the provisions of this Article, all benefits acquired by the employee prior to his/her layoff shall also be reinstated. An employee shall not receive credit for time spent on layoff in computing time for any benefit entitlement.

ARTICLE 10 WAGES AND SPECIAL PAY

- 10.1 Salary Ranges Effective June 26, 2011, all salary ranges for employees holding positions in classifications assigned to AEA (Unit 41/42) shall be decreased by approximately 10.1%. This will result in the top and bottom of the range of all classifications represented by AEA (Unit 41/42) being 10.1% lower. All employees will receive a 10.1% base pay reduction

10.2 Bilingual Pay

- 10.2.1 An employee must meet at least one of the following eligibility requirements and must be certified as bilingual for oral communication, written translation or sign language duties according to the current established procedure.

10.2.1.1 The employee is currently assigned to a position selectively certified based on bilingual ability by the Director of Human Resources, or his/her designee, or

10.2.1.2 The duties currently assigned and currently being performed by an employee have been designated by the Department Director or his/her designee as requiring utilization of a non-English language on a regular basis.

10.2.2 Each full-time employee who meets the above eligibility requirements shall be compensated for performing oral communication or sign language duties at the rate of \$29.00 per biweekly pay period and for performing written translation duties at the rate of \$40.00 per biweekly pay period for each pay period actually worked.

10.2.3 Each part-time employee who meets the above eligibility requirements shall be compensated for performing oral communication or sign language duties at the rate of \$19.00 per biweekly pay period and for performing written translation duties at the rate of \$30.00 per biweekly pay period for each pay period actually worked.

10.2.4 If an eligible employee is on paid leave for a period of one full pay period or more, the employee will not receive bilingual pay for that period.

10.3 Working In a Higher Classification

10.3.1 Upon specific written assignment by the Department Director, or his/her designated representative, with prior written approval, a full-time employee may be required to perform the duties of a full-time position in a higher classification. Such assignments shall be made to existing authorized positions that are not actively occupied due to the temporary absence of the regularly appointed employee.

10.3.2 As an alternative to making appointments to vacant positions, a Department may, upon the approval of the Office of the City Manager, assign an employee to work in a higher classification for a period of time not to exceed twelve (12) months. At the expiration of the period of assignment (not to exceed twelve months), the assigned employee shall return to his/her regular assignment. The Department may then request authorization to fill the position on a regular basis or return it to vacant status.

10.3.3 Employees specifically assigned in writing to duties of a higher classification as specified above shall be compensated at the rate in the salary range of the higher class, which is at least two (2) salary rates (steps) higher in the salary range schedule, approximately equal to five percent (5%) higher than the rate received by the employee in the employee's present class. The employee shall not receive the rate of compensation, however, unless the assignment is for a minimum of three (3) consecutive months.

10.4 Mileage Reimbursement Each employee of the City who is authorized by the Department Director or designee to use the employee's private automobile in the performance of the duties of the employee's position, shall be paid as a travel allowance for such use of his/her private automobile a "mileage reimbursement rate" consistent with the City's rate.

10.5 Premium Pay

10.5.1 Employees shall receive a professional achievement incentive of .25% (paid biweekly) in addition to their base salary as follows. Employees are eligible for one (1) professional achievement incentive. In order to receive the professional achievement incentive the license or registration must be related to the specific discipline of the employee's classification and is subject to approval by Department Director or designee.

10.5.2 Eligible Licenses/Registrations:

License/Registration
Landscape Architect
Architect
Professional Engineer (Civil)
Engineering Geologist
Traffic Engineer
Professional Engineer (Mechanical)
Professional Engineer (Electrical)
Fire Protection Engineer
Professional Engineer (Chemical)

10.5.3 Employees in the Fire Department are eligible to receive a professional achievement incentive for a Plans Examiner Certificate. These employees in the Fire Department are only eligible for one (1) professional achievement incentive for a maximum of .25% of base salary.

10.5.4 Payment of such incentive is not intended to impair or alter the City's ability to transfer or reassign an employee.

10.5.5 Incentives are payable effective the first pay period following the employee's submission to the department of written proof of license from the appropriate Board of Registration.

ARTICLE 11 BENEFITS

11.1 Health Insurance

11.1.1 The City will provide health coverage for eligible full-time employees and their dependents in accordance with one of the available plans.

Effective pay date July 1, 2011, the City pays eighty-five percent (85%) of the cost of the lowest priced plan for the employee or the employee and dependent coverage and the employee pays fifteen percent (15%) of the premium for the lowest priced plan. If the employee selects a plan other than the lowest priced plan, the employee pays the difference between the total cost of the selected plan and the City's contribution towards the lowest priced plan.

11.1.2 Effective pay date July 1, 2011, the City pays eighty-five percent (85%) of the cost of the lowest priced plan for the employee or the employee and dependent coverage and the employee pays fifteen percent (15%) of the premium for the lowest priced plan. If the employee selects a plan other than the lowest priced plan, the employee pays the difference between the total cost of the selected plan and the City's contribution towards the lowest price plan.

11.1.3 Effective pay date July 1, 2011, a \$25 Co-pay plan shall be implemented for all HMO plans, including the following changes:

- a. Office Visit Co-pay shall be increased to \$25
- b. Prescription Co-pay shall be increased to \$10 for generic and \$25 for brand name
- c. Emergency Room Co-pay shall be increased to \$100
- d. Inpatient/Outpatient procedure Co-pay shall be increased to \$100

11.1.4 An employee may not be simultaneously covered by City-provided medical benefits as a City employee and as a dependent of another City employee or retiree.

11.2 Dental Insurance

11.2.1 The City will provide dental coverage for eligible full-time employees and their dependents. As of the date of this Agreement the plans include an indemnity plan and a DHMO plan. These plans are described in the City of San Jose Employee Benefits Handbook and in pamphlets available in the Human Resources Department.

11.2.2 The City will provide dental coverage in the lowest priced plan for eligible full time employees and their dependents. If an employee selects a plan other than the lowest priced plan, the City will pay ninety-five percent (95%) of the full premium cost for the selected dental coverage for eligible full time employees and their dependents and the employee shall pay five percent (5%) of the full premium cost for the selected plan. As of the date of this Agreement the plans include an indemnity plan and a DHMO plan. These plans are described in the City of San Jose Employee Benefits Handbook and in pamphlets available in the Human Resources Department.

11.2.3 An employee may not be simultaneously covered by City-provided dental benefits as a City employee and as a dependent of another City employee or retiree.

11.3 Payment In-Lieu of Health and Dental Insurance

11.3.1 The purpose of the payment-in-lieu of health and/or dental insurance program is to allow employees who have double health and/or dental insurance coverage to drop the City's insurance and receive a payment-in-lieu.

enrollment in the plan shall be in accordance with the carriers' enrollment procedures.

11.3.6.2 Dental Insurance Enrollment in a City dental insurance plan following loss of alternate coverage will become effective the first of the month following payment of two dental premiums through the City's payroll process. Re-enrollment in the dental insurance plan shall not be retroactive.

11.4 Life Insurance The City shall pay the full premium for employee coverage equal to two (2) times the employee's annual salary.

11.5 Employee Assistance Program (EAP) During the term of this agreement, the City will continue to provide an Employee Assistance Program at the level of benefit provided on the effective date of this agreement.

11.6 Professional Development Program The City will reimburse each employee 100% of eligible expenses incurred, up to \$600.00 per fiscal year, pursuant to the terms and conditions of the Professional Development Program for employees represented by AEA, IFPTE, Local 21 as described in Section 4.3.3 of the City Policy Manual.

11.7 Training

11.7.1 The City and the Union recognize the importance of continuing education and the diverse training needs of the employees represented by the Association of Engineers and Architects. Therefore, the City shall endeavor to provide employees a minimum of twenty-four (24) hours of training per fiscal year. This goal will be accomplished through trainings mandated by Departments and the City.

11.7.2 The Union may make recommendations regarding training needs and advise department management and the Union/City Committee of specific training opportunities.

11.8 Professional Memberships Each employee is eligible for reimbursement for membership fees or dues paid for the maintenance of a license required to perform employee's job and for dues paid for membership in one additional job related professional association.

11.9 Management Performance Program Employees represented by AEA, IFPTE Local 21 are covered under the Management Performance Program, Section 3.3.2 of the City Policy Manual. Employees are eligible for performance-based pay increases as outlined in the Management Performance Program, Section 3.3.2 of the City Policy Manual.

ARTICLE 12 RETIREE HEALTHCARE FUNDING

12.1 The City and the Employee Organization agree to transition from the current partial pre-funding of retiree medical and dental healthcare benefits (referred to as the "policy method") to pre-funding of the full Annual Required Contribution (ARC) for the retiree

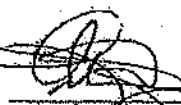
healthcare plan ("Plan"). The transition shall be accomplished by phasing into fully funding the ARC over a period of five (5) years beginning June 28, 2009. The Plan's initial unfunded retiree healthcare liability shall be fully amortized over a thirty year period so that it shall be paid by June 30, 2039 (closed amortization). Amortization of changes in the unfunded retiree healthcare liability other than the initial retiree healthcare liability (e.g. gains, losses, changes in actuarial assumptions, etc.) shall be determined by the Plan's actuary. The City and Plan members (active employees) shall contribute to funding the ARC in the ratio currently provided under Section 3.28.380 (C) (1) and (3) of the San Jose Municipal Code. Specifically, contributions for retiree medical benefits shall be made by the City and members in the ratio of one-to-one. Contributions for retiree dental benefits shall be made by the City and members in the ratio of eight-to-three. When determining the contribution rates for the Plan, the Plan actuary shall continue to use the Entry Age Normal (EAN) actuarial cost method and a discount rate consistent with the pre-funding policy for the Plan as outlined in this Article.

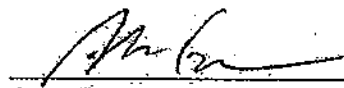
- 12.2 The City and the Employee Organization further agree that the Municipal Code and/or applicable plan documents shall be amended in accordance with the above agreement and that the Employee Organization will support such amendments.
- 12.3 It is understood that in reaching this agreement, the parties have been informed by cost estimates prepared by the Federated City Employees' Retirement System Board's actuary and that the actual contribution rates to reach full pre-funding of retiree healthcare will differ. The phase-in to the ARC shall be divided into five steps (using a straight line method), each to be effective on the first pay period of the City's fiscal year in each succeeding year. The first increment of the phase-in shall be effective on June 28, 2009. It is understood that because of changes resulting from future actuarial valuations, the amount of each increase may vary upward or downward. The City and Employee Organization agree that the Plan member cash contribution rate shall not have an incremental increase of more than .75% of pensionable pay in each fiscal year and the City cash contribution rate shall not have an incremental increase of more than .75% of pensionable pay in each fiscal year. For example, if the members' contribution rate is 4% of pensionable pay, the subsequent fiscal year's contribution rate for retiree healthcare cannot exceed 4.75% of pensionable pay. Notwithstanding the limitations on the incremental increases, by the end of the five year phase-in, the City and plan members shall be contributing the full Annual Required Contribution in the ratio currently provided under Section 3.28.380 (C) (1) and (3) of the San Jose Municipal Code.
- 12.4 The City will establish a qualified trust ("Trust") before June 27, 2010. Until such time as a Trust is established, the City and employee contributions under this agreement shall be made into the existing Medical Benefits Account for as long the contributions can be made into the Medical Benefits Account in accordance with IRS limitations. If the Trust is not established prior to reaching the IRS limitation, the parties agree to meet and discuss alternative funding vehicles.
- 12.5 It is the objective of the parties that the Trust created pursuant to this agreement shall become the sole funding vehicle for Federated retiree healthcare benefits, subject to any legal restrictions under the current plan, or other applicable law.

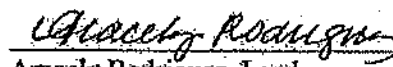
THIS AGREEMENT executed on the 30th day of June, between the City of San Jose and The Association of Engineers and Architects, International Federation of Professional and Technical Engineers, Local 21 (AEA), IN WITNESS THEREOF, the appropriate representatives of the parties have affixed their signature thereto.

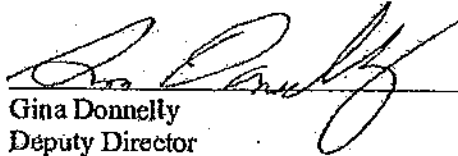
This Memorandum of Agreement was approved by the City Council of the City of San Jose on April 19, 2011.


For The City of San Jose:

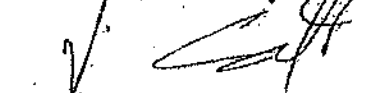

Dobra Pagon
City Manager


Atex Gurza
Deputy City Manager

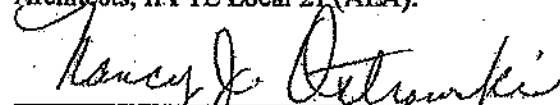

Amely Rodriguez, Lead
Senior Executive Analyst

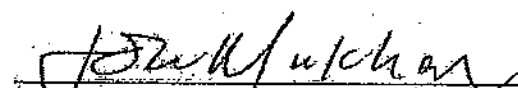

Gina Donnelly
Deputy Director

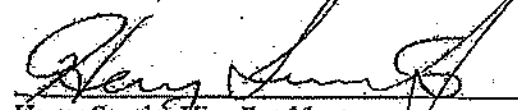

Marco Mercado
Senior Executive Analyst



Vijay Sarmeta
Director of Information Technology

For The Association of Engineers and Architects, IFPTE Local 21 (AEA):


Nancy Ostrowski, Labor Representative
AEA/IFPTE, Local 21


John Mukhar, President
AEA/IFPTE, Local 21


Henry Serwin, Vice President
AEA/IFPTE, Local 21


Dianna Butcher, Negotiation Team Member
AEA/IFPTE, Local 21

Memorandum of Agreement

City of San José

and

**Association of Engineers and Architects (AEA)
International Federation of Professional and
Technical Engineers, Local 21
AFL-CIO
Unit 043**



July 1, 2011 -- June 30, 2013

GURZA000195

**Association of Engineers and Architects,
International Federation of Professional and Technical Engineers, Local 21
Unit 043
Memorandum of Agreement**

July 1, 2011 through June 30, 2013

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EXHIBITS:

EXHIBIT I Job Classifications

- 3.1.2 Existing benefits within the scope of representation provided by ordinance or resolution of the City Council or as provided in the San Jose Municipal Code shall be continued without change during the term of this Agreement and be provided in accordance with the terms of the Agreement.
- 3.1.3 It is the intent of the parties that ordinances, resolutions, rules and regulations enacted pursuant to this Memorandum of Agreement be administered and observed in good faith.
- 3.1.4 Although nothing in this Agreement shall preclude the parties from mutually agreeing to meet and confer on any subject within the scope of representation during the term of this Agreement, it is understood and agreed that neither party may require the other party to meet and confer on any subject matter covered herein or with respect to any other matter within the scope of representation during the term of this Agreement.

3.1.5 Reopener

- 3.1.5.1 Total Compensation. In the event that the City reaches a settlement with any other employee unit covering the time period of this Agreement that has an ongoing total compensation reduction of less than ten percent (10%), in any form or manner, this agreement will reopen on the subject of total compensation and the parties will meet and confer to determine how the difference between a 10% ongoing total compensation reduction and the lesser amount agreed to with any other employee unit will be provided.

This provision will also apply in the event the City reaches a settlement which does not include the roll back of any general wage increase (not including any step and/or merit increases), as authorized by the City Council on November 25, 2010, received by any employee unit in Fiscal Year 2010-2011.

This provision will not apply to any changes made to any employee unit which occurs as the result of an interest arbitration award that is the result of contested issues resolved only via a full evidentiary hearing and substantive briefing.

- 3.1.5.2 Vacation Sellback. In the event the City reaches a settlement with any other employee unit eligible to sell back accrued vacation hours that does not eliminate the Vacation Sellback program effective the beginning of the first pay period of payroll calendar year 2013, absent other equivalent concessions received from such employee unit in lieu of eliminating Vacation Sellback, this agreement will reopen on the subject of Vacation Sellback and the parties will meet and confer to determine the provisions of the Vacation Sellback program for payroll calendar year 2013.

Reinstatement Eligible List, unless such person has reinstatement rights under the provisions of this Article to a higher class than the one in which the reinstatement is being refused.

- 9.6.2 In the event an employee accepts reinstatement to a lower class to which he/she is entitled, such person's name shall remain on the Reinstatement Eligible List for reinstatement to a lateral class; provided such person, except for lack of seniority, would have been otherwise entitled to such lateral class at the time of the most recent layoff.
- 9.6.3 Any person who is reinstated to a class which is the highest class to which he/she would have been entitled at the time of the layoff shall have his/her name removed from the Reinstatement Eligible List.
- 9.6.4 In the event a person on layoff cannot be contacted by the City through usual and customary channels, including, but not limited to emails, phone calls or regular mail within ten (10) working days, such person's name shall be removed from the Reinstatement Eligible List, providing, however, that such person within the three (3) year period specified herein may request that his/her name be replaced on the Reinstatement Eligible List and such person's name may, in the sole discretion of the Director of Human Resources or his/her designee, be returned to the Reinstatement Eligible List. It shall be the responsibility of each person placed on the Reinstatement Eligible list to notify the Department of Human Resources of changes in contact information including, but not limited to email address, phone number or mailing address.
- 9.6.5 In no event shall the names of any person laid off pursuant to the provisions of this Article remain on a Reinstatement Eligible List for a period longer than three (3) years from the effective date of such person's most recent layoff. If there are employees on a Reinstatement Eligible List, the City will review such list prior to contracting-out work, or hiring outside work, to determine if the work could be performed by someone on the Reinstatement Eligible List.
- 9.6.6 Upon reinstatement to any classification to which the employee is entitled pursuant to the provisions of this Article, all benefits acquired by the employee prior to his/her layoff shall also be reinstated. An employee shall not receive credit for time spent on layoff in computing time for any benefit entitlement.

ARTICLE 10 WAGES AND SPECIAL PAY

- 10.1 Salary Effective June 26, 2011, all salary ranges for employees holding positions in classifications assigned to AEA (Unit 43) shall be decreased by approximately 10.1%. This will result in the top and bottom of the range of all classifications represented by AEA (Unit 43) being 10.1% lower. All employees will receive a 10.1% base pay reduction.

10.2 Bilingual Pay

10.2.1 An employee must meet at least one of the following eligibility requirements and must be certified as bilingual for oral communication, written translation or sign language duties according to the current established procedure.

10.2.1.1 The employee is currently assigned to a position selectively certified based on bilingual ability by the Director of Human Resources, or his/her designee, or

10.2.1.2 The duties currently assigned and currently being performed by an employee have been designated by the Department Director or his/her designee as requiring utilization of a non-English language on a regular basis.

10.2.2 Each full-time employee who meets the above eligibility requirements shall be compensated for performing oral communication or sign language duties at the rate of \$29.00 per biweekly pay period and for performing written translation duties at the rate of \$40.00 per biweekly pay period for each pay period actually worked.

10.2.3 Each part-time employee who meets the above eligibility requirements shall be compensated for performing oral communication or sign language duties at the rate of \$19.00 per biweekly pay period and for performing written translation duties at the rate of \$30.00 per biweekly pay period for each pay period actually worked.

10.2.4 If an eligible employee is on paid leave for a period of one full pay period or more, the employee will not receive bilingual pay for that period.

10.3 Working in a Higher Classification

10.3.1 Upon specific written assignment by the Department Director, or his/her designated representative, with prior written approval, a full-time employee may be required to perform the duties of a full-time position in a higher classification. Such assignments shall be made to existing authorized positions that are not actively occupied due to the temporary absence of the regularly appointed employee.

10.3.2 As an alternative to making appointments to vacant positions, a Department may, upon the approval of the Office of the City Manager, assign an employee to work in a higher classification for a period of time not to exceed twelve (12) months. At the expiration of the assignment (not to exceed twelve months), the assigned employee shall return to his/her regular assignment. The Department may then request authorization to fill the position on a regular basis or return it to vacant status.

10.3.3 Employees specifically assigned in writing to duties of a higher classification as specified above shall be compensated at the rate in the salary range of the higher class, which is at least two (2) salary rates (steps) higher in the salary range schedule, approximately equal to five percent (5%) higher than the rate received by the employee in the employee's present class. The employee shall not receive the rate of compensation, however, unless the assignment is for a minimum of three (3) consecutive months.

10.4 Mileage Reimbursement Each employee of the City who is authorized by the Department Director or designee to use the employee's private automobile in the performance of the duties of the employee's position, shall be paid as a travel allowance for such use of his/her private automobile a "mileage reimbursement rate" consistent with the City's rate.

ARTICLE 11 BENEFITS

11.1 Health Insurance

11.1.1 The City will provide health coverage for eligible full-time employees and their dependents in accordance with one of the available plans.

11.1.2 Effective pay date July 1, 2011, the City pays eighty-five percent (85%) of the cost of the lowest priced plan for the employee or the employee and dependent coverage and the employee pays fifteen percent (15%) of the premium for the lowest priced plan. If the employee selects a plan other than the lowest priced plan, the employee pays the difference between the total cost of the selected plan and the City's contribution towards the lowest priced plan.

11.1.3 Effective pay date July 1, 2011, a \$25 Co-pay plan shall be implemented for all HMO plans, including the following changes:

- a. Office Visit Co-pay shall be increased to \$25
- b. Prescription Co-pay shall be increased to \$10 for generic and \$25 for brand name
- c. Emergency Room Co-pay shall be increased to \$100
- d. Inpatient/Outpatient procedure Co-pay shall be increased to \$100

11.1.4 An employee may not be simultaneously covered by City-provided medical benefits as a City employee and as a dependent of another City employee or retiree.

11.2 Dental Insurance

11.2.1 The City will provide dental coverage for eligible full-time employees and their dependents. As of the date of this Agreement the plans include an indemnity plan and a DHMO plan. These plans are described in the City of San Jose Employee

11.7 Training

11.7.1 The City and the Union recognize the importance of continuing education and the diverse training needs of the employees represented by the Association of Engineers and Architects. Therefore, the City shall endeavor to provide employees a minimum of twenty-four (24) hours of training per fiscal year. This goal will be accomplished through trainings mandated by Departments and the City.

11.7.2 The Union may make recommendations regarding training needs and advise department management and the Union/City Committee of specific training opportunities.

11.8 Professional Memberships Each employee is eligible for reimbursement for membership fees or dues paid for the maintenance of a license required to perform employee's job and for dues paid for membership in one additional job related professional association.

11.9 Management Performance Program Employees represented by AEA, IFPTE Local 21 are covered under the Management Performance Program, Section 3.3.2 of the City Policy Manual. Employees are eligible for performance-based pay increases as outlined in the Management Performance Program, Section 3.3.2 of the City Policy Manual.

ARTICLE 12 RETIREE HEALTHCARE FUNDING

12.1 The City and the Employee Organization agree to transition from the current partial pre-funding of retiree medical and dental healthcare benefits (referred to as the "policy method") to pre-funding of the full Annual Required Contribution (ARC) for the retiree healthcare plan ("Plan"). The transition shall be accomplished by phasing into fully funding the ARC over a period of five (5) years beginning June 28, 2009. The Plan's initial unfunded retiree healthcare liability shall be fully amortized over a thirty year period so that it shall be paid by June 30, 2039 (closed amortization). Amortization of changes in the unfunded retiree healthcare liability other than the initial retiree healthcare liability (e.g. gains, losses, changes in actuarial assumptions, etc.) shall be determined by the Plan's actuary. The City and Plan members (active employees) shall contribute to funding the ARC in the ratio currently provided under Section 3.28.380 (C) (1) and (3) of the San Jose Municipal Code. Specifically, contributions for retiree medical benefits shall be made by the City and members in the ratio of one-to-one. Contributions for retiree dental benefits shall be made by the City and members in the ratio of eight-to-three. When determining the contribution rates for the Plan, the Plan actuary shall continue to use the Entry Age Normal (EAN) actuarial cost method and a discount rate consistent with the pre-funding policy for the Plan as outlined in this Article.

12.2 The City and the Employee Organization further agree that the Municipal Code and/or applicable plan documents shall be amended in accordance with the above agreement and that the Employee Organization will support such amendments.

- 12.3 It is understood that in reaching this agreement, the parties have been informed by cost estimates prepared by the Federated City Employees' Retirement System Board's actuary and that the actual contribution rates to reach full pre-funding of retiree healthcare will differ. The phase-in to the ARC shall be divided into five steps (using a straight line method), each to be effective on the first pay period of the City's fiscal year in each succeeding year. The first increment of the phase-in shall be effective on June 28, 2009. It is understood that because of changes resulting from future actuarial valuations, the amount of each increase may vary upward or downward. The City and Employee Organization agree that the Plan member cash contribution rate shall not have an incremental increase of more than .75% of pensionable pay in each fiscal year and the City cash contribution rate shall not have an incremental increase of more than .75% of pensionable pay in each fiscal year. For example, if the members' contribution rate is 4% of pensionable pay, the subsequent fiscal year's contribution rate for retiree healthcare cannot exceed 4.75% of pensionable pay. Notwithstanding the limitations on the incremental increases, by the end of the five year phase-in, the City and plan members shall be contributing the full Annual Required Contribution in the ratio currently provided under Section 3.28.380 (C) (1) and (3) of the San Jose Municipal Code.
- 12.4 The City will establish a qualified trust ("Trust") before June 27, 2010. Until such time as a Trust is established, the City and employee contributions under this agreement shall be made into the existing Medical Benefits Account for as long the contributions can be made into the Medical Benefits Account in accordance with IRS limitations. If the Trust is not established prior to reaching the IRS limitation, the parties agree to meet and discuss alternative funding vehicles.
- 12.5 It is the objective of the parties that the Trust created pursuant to this agreement shall become the sole funding vehicle for Federated retiree healthcare benefits, subject to any legal restrictions under the current plan, or other applicable law.

ARTICLE 13 SAFETY

- 13.1 The City shall provide a safe and healthy working environment in accordance with applicable Local, State and Federal laws and regulations.
- 13.2 Any employee who believes a violation exists may request that the City make a determination as to the safety of the work assignment and further, be protected under the Cal/OSHA regulations, including but not limited to Labor Code Section 6311.

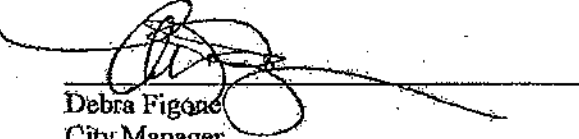
ARTICLE 14 PERSONAL PROTECTIVE EQUIPMENT

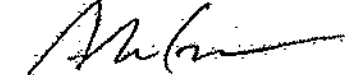
- 14.1 The City agrees to make available all required personal protective equipment when needed during the normal course of work (i.e., protective eyewear, protective footwear) in compliance with Cal-OSHA regulations and upon approval of the Department Director or designee.
- 14.2 The requirements for safe working conditions are established and maintained under the California Occupational Safety and Health Act of 1973. Enforcement and rule-making

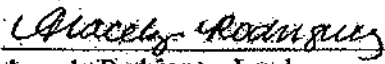
THIS AGREEMENT executed on the 30th day of June, 2011 between the City of San Jose and The Association of Engineers and Architects, International Federation of Professional and Technical Engineers, Local 21 (Unit 43), IN WITNESS THEREOF, the appropriate representatives of the parties have affixed their signature thereto.

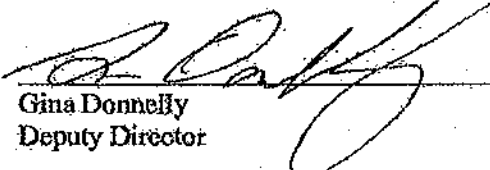
This Memorandum of Agreement was approved by the City Council of the City of San Jose on April 19, 2011.

For The City of San Jose:


Debra Figone
City Manager


Alex Gurza
Deputy City Manager

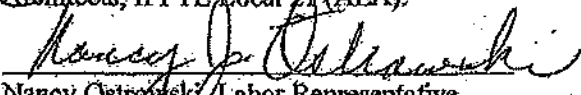

Aracely Rodriguez, Lead
Senior Executive Analyst



Gina Donnelly
Deputy Director


Marco Mercado
Senior Executive Analyst

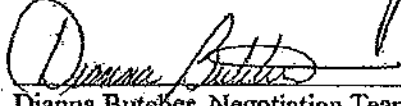

Vijay Sammeta
Director of Information Technology

For The Association of Engineers and Architects, IFPTE Local 21 (AEA):


Nancy Ostrowski, Labor Representative
AEA/IFPTE, Local 21


John Mukhar, President
AEA/IFPTE, Local 21


Henry Servin, Vice President
AEA/IFPTE, Local 21


Dianna Butcher, Negotiation Team Member
AEA/IFPTE, Local 21

RESOLUTION NO. 75419

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE
APPROVING AN AGREEMENT BETWEEN THE CITY OF SAN
JOSE AND THE ASSOCIATION OF LEGAL PROFESSIONALS
OF SAN JOSE (ALP), WITH A TERM OF JULY 1, 2010 TO JUNE
30, 2011

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SAN JOSE:

1. That the Agreement between the City of San José and the Association of Legal Professionals of San Jose (ALP), with a term of July 1, 2010 to June 30, 2011, attached hereto as Attachment A and incorporated in this Resolution, is hereby approved.

ADOPTED this 15th day of June, 2010, by the following vote:

AYES: CAMPOS, CHIRCO, CHU, CONSTANT, HERRERA,
KALRA, LICCARDO, NGUYEN, OLIVERIO, PYLE; REED.

NOES: NONE.

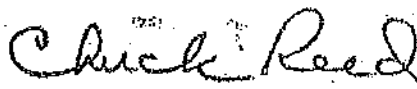
ABSENT: NONE.

DISQUALIFIED: NONE.

ATTEST:



LEE PRICE, MMC
City Clerk



CHUCK REED
Mayor

ATTACHMENT A
CITY OF SAN JOSE
AND
ASSOCIATION OF LEGAL PROFESSIONALS OF SAN JOSE (ALP)
TENTATIVE AGREEMENT

75419

TERM

Term: July 1, 2010 – June 30, 2011

PAY REDUCTION

Ongoing

Effective June 27, 2010, all salary ranges for employees holding positions in classifications assigned to ALP shall be decreased by approximately 4.75%. This will result in the top and bottom of the range of all classifications represented by ALP being 4.75% lower. All employees will receive a 4.75% base pay reduction.

One-Time

Effective June 27, 2010 through June 25, 2011, all employees represented by ALP will receive a 1.00% base pay reduction. This is in addition to the 4.75% base pay reduction that will be effective June 27, 2010.

HEALTH INSURANCE COST SHARING

The City will provide health coverage for eligible full-time employees and their dependents in accordance with one of the available plans.

The City pays 90% of the cost of the lowest priced plan for the employee or the employee and dependent coverage and the employee pays 10% of the premium for the lowest priced plan.

Effective June 27, 2010, the City shall pay eighty-five percent (85%) of the full premium cost of the lowest priced plan for employee or employee and dependent coverage, and the employee will pay fifteen percent (15%) of the premium for the lowest priced plan for employee or for employee and dependent coverage. If an employee selects a plan other than the lowest priced plan, the employee shall pay the difference between the total cost of the selected plan and the City's contribution towards the lowest priced plan for employee or for employee and dependent coverage.

If the employee selects a plan other than the lowest priced plan, the employee pays the difference between the total cost of the selected plan and the City's contribution towards the lowest priced plan.

* Reimbursement/contribution is prorated for part-time employees based on hours scheduled:

- 30 – 39 hours = 75%
- 25 – 29 hours = 62.5%
- 20 – 24 hours = 50%
- Less than 20 hours = none

ATTACHMENT A
CITY OF SAN JOSE
AND
ASSOCIATION OF LEGAL PROFESSIONALS OF SAN JOSE (ALP)
TENTATIVE AGREEMENT

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HEALTH INSURANCE/HMO PLAN DESIGN

Effective July 1, 2010, the following plan design changes shall be implemented for all HMO plans:

- a. Office Visit Co-pay shall be increased to \$25
- b. Prescription Co-pay shall be increased to \$10 for generic and \$25 for brand name
- c. Emergency Room Co-pay shall be increased to \$100
- d. Inpatient/Outpatient procedure Co-pay shall be increased to \$100

HEALTH INSURANCE DUAL COVERAGE

Health Insurance

An employee may not be simultaneously covered by City-provided medical benefits as a City employee, and as a dependent of another City employee or retiree.

Dental Insurance

An employee may not be simultaneously covered by City-provided dental benefits as a City employee, and as a dependent of another City employee or retiree.

HEALTH INSURANCE HEALTH IN LIEU

The purpose of the payment-in-lieu of health and/or dental insurance program is to allow employees who have alternative health and/or dental insurance coverage to drop the City's insurance and receive a payment in lieu.

An employee may choose, during open enrollment or within thirty days of a qualifying event, to drop health and/or dental coverage and receive a payment in-lieu equal to one-half of the City's contribution toward health and/or dental coverage.

Effective June 27, 2010, employees who qualify for and participate in the payment in-lieu of health and/or dental insurance program will receive the following per payperiod:

	Health In-lieu	Dental In-lieu
If eligible for family coverage	\$221.84	\$19.95
If NOT eligible for family coverage	\$89.09	\$19.95

A City employee who receives healthcare coverage as a dependent of another City employee or retiree shall be deemed not eligible for family coverage.

An employee may choose, during open enrollment or within thirty days of a qualifying event, to drop health and/or dental coverage and receive a payment-in-lieu. To qualify, the employee must prove acceptable alternate group coverage and work 35+ hours/week.

ATTACHMENT A
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ASSOCIATION OF LEGAL PROFESSIONALS OF SAN JOSE (ALP)
TENTATIVE AGREEMENT

DISABILITY LEAVE SUPPLEMENT

If required to be absent from work due to a work related illness or injury, employees may receive a supplement which, when added to the Workers' Compensation Temporary Disability, equals 85% of the employees' base salary, up to a maximum of six (6) months (1,040 hours if used intermittently).

Part-time and temporary employees are not eligible for this benefit.

MANDATORY UNPAID FURLOUGH DAYS

During Fiscal Year 2010-2011 (July 1, 2010 – June 30, 2011), all employees represented by ALP shall take twelve (12) mandatory unpaid furlough days. Employees shall be required to take a minimum of one (1) mandatory unpaid furlough day per month until all twelve (12) mandatory unpaid furlough days have been taken. Employees may select the unpaid mandatory furlough days, however, the City Attorney or Designee will have final approval over the unpaid mandatory furlough days prior to the employee taking mandatory unpaid furlough days.

The annual compensation, sick leave accruals, vacation accruals and seniority will be reduced in correlation with the reduced work hours for all employees represented by ALP. This means that, employees will earn less wages, sick leave, vacation and City Seniority (Civil Service only) during Fiscal Year 2010-2011.

Retirement contributions are paid by employees and the City at the established rates as a percentage of base salary. During the term of this agreement, both the City and the employees represented by ALP will continue to make contributions to the Retirement System for all paid hours and all regular hours that employees represented by ALP would have worked, but did not as a result of the mandatory unpaid furlough days, which equates to ninety-six (96) hours for Fiscal Year 2010-2011.

USE OF CONCESSIONS TO SAVE POSITIONS

Savings achieved from the terms of this agreement, shall be used to restore three (3) filled positions represented by ALP that are proposed to be eliminated as part of the Fiscal Year 2010-2011 Proposed Budget. In the event that ALP reopens this Agreement to the extent permitted by the Reopener provision, this Use of Concessions to Save Positions provision shall be null and void, and the City shall have no obligation to restore three (3) filled positions as described in this paragraph.

REOPENER

In the event that the City and AEA, AMSP, CAMP, OE#3, or IBEW reach a settlement or the City Council approves implementation of terms that achieves less than a 10% reduction in total compensation reduction for Fiscal Year 2010-2011, ALP may provide a written request to reopen the terms of this Agreement within ten (10) calendar days of the City Council approving such an agreement or implementation of terms with AEA, AMSP, CAMP, OE#3 or IBEW. This

ATTACHMENT A
CITY OF SAN JOSE
AND
ASSOCIATION OF LEGAL PROFESSIONALS OF SAN JOSE (ALP)
TENTATIVE AGREEMENT

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provision shall also apply if the City Council approves terms for Unit 99 that achieves less than a 10% reduction in total compensation for Fiscal Year 2010-2011. Upon the City's receipt of ALP's written request to reopen negotiations and the existence of the facts described in this paragraph, the City and ALP shall meet and confer over matters within the scope of representation. The City and ALP agree that if ALP requests to reopen this Agreement, the City shall have no obligation to restore three (3) filled positions represented by ALP that are proposed to be eliminated as part of the Fiscal Year 2010-2011 Proposed Budget.

COMMENCEMENT OF NEGOTIATIONS

It is mutually agreed that the first meeting of the parties will be held in January 2011, after the City or ALP receives a written notice from the other requesting the commencement of negotiations.

Employees represented by ALP shall receive the benefits received by Unit 99 as of June 15, 2010 (including the Professional Development Program), unless modified herein, or unless and until the City provides reasonable advance notice of any changes to any benefits within the scope of bargaining.

Although the ALP bargaining unit has agreed to and ratified this Tentative Agreement, the City and ALP acknowledge that this Tentative Agreement shall not be a final and binding Agreement until it has been presented to and approved by the City Council.

If approved by the City Council, the terms and conditions contained in this Tentative Agreement represent the full, complete, and entire understanding of the parties about matters within the scope of representation. Any terms and conditions or matter within the scope of representations not included in this document shall not be included in this tentative agreement.

FOR THE CITY:

Aracely Rodriguez
Aracely Rodriguez
Senior Executive Analyst

6/15/10
Date

Dan Tong
Dan Tong
Chief of Staff

6/15/10
Date

Heather Ruiz
Heather Ruiz
Deputy Director

6/15/10
Date

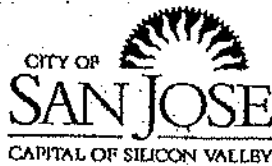
FOR THE UNION:

William Clark
William Clark
ALP President

6/15/10
Date

Brian Doyle
Brian Doyle
ALP Representative

6/15/10
Date



SUPPLEMENTAL

COUNCIL AGENDA: 06/15/10
ITEM: 3.7

Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Debra Figone

SUBJECT: SEE BELOW

DATE: June 15, 2010

SUBJECT: APPROVAL OF THE TERMS OF AN AGREEMENT WITH THE
ASSOCIATION OF LEGAL PROFESSIONALS OF SAN JOSE (ALP)

SUPPLEMENTAL

REASON FOR SUPPLEMENTAL MEMORANDUM

Item 3.7 on the City Council Agenda is for approval of an agreement or implementation of terms of the City's Last, Best and Final Offer for the Association of Legal Professionals of San Jose (ALP). The memorandum dated June 9, 2010, includes the terms of the City's Last, Best and Final Offer. An agreement was reached with ALP on June 15, 2010, that achieves a total compensation reduction of 10% (5% ongoing and 5% one-time), and this Memorandum outlines the terms of that Agreement.

It is recommended that the City Council authorize the execution of an agreement for the period of July 1, 2010 through June 30, 2011, between the City and the Association of Legal Professionals of San Jose (ALP).

BACKGROUND

The City of San Jose provided ALP with its Last, Best and Final Offer on June 8, 2010. The elements of the Last, Best and Final Offer were contained in the Memorandum dated June 9, 2010.

On June 14, 2010, ALP emailed a counterproposal that achieved a 10% total compensation reduction. The City and ALP negotiation team met on the afternoon of June 14, 2010, to discuss in detail the elements of the proposal. On the morning of June 15, 2010, ALP met with its membership to ratify terms for a one-year agreement. The ALP notified the City's negotiation team that the majority of the membership ratified the proposal. A tentative agreement was signed by the City and ALP negotiation team. A complete copy of the Tentative Agreement is attached.

GURZA000210

HONORABLE MAYOR AND CITY COUNCIL

June 15, 2010

Subject: Approval of the Terms of An Agreement with ALP

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ANALYSIS

The following is a summary of the key provisions of the Agreement:

Wages

Ongoing

Reduce current base pay by approximately 4.75% effective June 27, 2010. This will result in both the top and bottom of the pay range being reduced by approximately 4.75%.

One-Time

Reduce base pay by approximately 1.90% effective June 27, 2010 through June 25, 2011. This is in addition to the 4.75% base pay reduction that will be effective June 27, 2010.

Healthcare Cost Sharing

Currently, the City pays ninety (90%) of the full premium cost of the lowest cost plan for employee or for employee and dependent coverage, and the employee pays ten (10%) of the premium for the lowest priced plan for employee or employee and dependent coverage.

Effective June 27, 2010, the City will pay eighty five percent (85%) of the full premium cost of the lowest cost plan for employee or for employee and dependent coverage, and the employee will pay fifteen (15%) of the premium for the lowest priced plan for employee or employee and dependent coverage.

Healthcare HMO Plan Design

The current HMO Plan Design provides for \$10 office visit co-pay, \$5 generic and \$10 brand name prescription co-pays, and a \$50 emergency room co-pay.

Effective July 1, 2010, co-pays for all available HMO plans shall be as follows:

- a. \$25 office visit co-pay
- b. \$10 generic/\$25 brand name prescription co-pay
- c. \$100 emergency room co-pay
- d. \$100 inpatient/outpatient procedure co-pay

Healthcare Dual Coverage

Effective July 1, 2010, employees may no longer be simultaneously covered by City-provided medical and/or dental benefits as a City employee and as a dependent of another City employee or retiree.

Healthcare Payment-In-Lieu

Currently, employees who have other health and/or dental coverage are eligible for a health-in-lieu and/or dental-in-lieu amount of 50% of the City's premium. This results in a formula that increases as the City's costs towards healthcare increases. The current in-lieu amounts are as follows:

HONORABLE MAYOR AND CITY COUNCIL

June 15, 2010

Subject: Approval of the Terms of An Agreement with ALP

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	<u>Health In-Lieu</u>	<u>Dental In-Lieu</u>
If eligible for family coverage:	250.31	24.44
If NOT eligible for family coverage:	100.54	24.44

Effective June 27, 2010, employees who qualify for and participate in payment-in-lieu of health and/or dental insurance program will receive the following per pay period:

	<u>Health In-Lieu</u>	<u>Dental In-Lieu</u>
If eligible for family coverage:	221.84	19.95
If NOT eligible for family coverage:	89.09	19.95

A City employee who receives healthcare coverage as a dependent of another City employee or retiree shall be deemed NOT eligible for family coverage.

This changes the current formula from a percentage to a fixed dollar amount and will reduce the increases in the health in-lieu program in the future.

Disability Leave Supplement Reduce maximum supplemental pay benefit from nine (9) calendar months (1560 hours) to six (6) calendar months (1040 hours).

Mandatory Unpaid Furlough Days During Fiscal Year 2010-2011, all employees represented by ALP shall take twelve (12) mandatory unpaid furlough days. A minimum of one mandatory unpaid furlough day must be taken each month until all twelve (12) mandatory unpaid furlough days have been taken. The City and employee shall continue to make contributions to the Retirement System for all paid hours and all regular hours that employees represented by ALP would have worked, but did not as a result of the mandatory unpaid furlough days. The annual compensation, sick leave accruals, vacation accruals and seniority (Civil Service only) will be reduced in correlation with the reduced work hours for all employees represented by ALP.

Use of Concessions To Save Positions Savings achieved from the terms of the Agreement, shall be used to restore three (3) filled positions represented by ALP that are proposed to be eliminated as part of the Fiscal Year 2010-2011 Proposed Budget.

Reopener In the event the City Council approves a total compensation reduction of less than 10%, AEA, AMSP, CAMP, OE#3, IBEW or Unit 99 for Fiscal Year 2010-2011, ALP may reopen the Agreement within ten (10) calendar days of the City Council approving terms with AEA, AMSP, CAMP, OE#3, IBEW or Unit 99. If ALP requests to reopen, the restoration of three (3) filled positions represented by ALP shall become null and void.

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HONORABLE MAYOR AND CITY COUNCIL

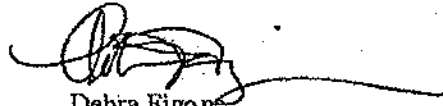
June 15, 2010

Subject: Approval of the Terms of An Agreement with ALP

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COST IMPLICATIONS

The terms of the Agreement meet the goal of a 10% total compensation reduction, including 5% in an ongoing total compensation reduction and another 5% in a one-time total compensation reduction. The calculated savings to the City is approximately \$0.9 million in all funds and approximately \$0.8 million in the General Fund. These cost savings are projected based on the Fiscal Year 2010-2011 Base Budget. It should be noted, however, that the actual amount of General Fund and all funds savings would need to be adjusted to reflect the City Manager's 2010-2011 Proposed Operating Budget as amended/approved by the City Council, any associated impacts on revenue from lower overhead or other reimbursements, any adjustments to the cost-recovery fee program, and the actual healthcare costs for each individual employee based upon eligibility, elections for coverage and the associated funding source.


Debra Figone
City Manager

For questions please contact Aracely Rodriguez, Senior Executive Analyst, at (408) 535-8152.

Attachment



GURZA000213

CITY OF SAN JOSE
AND
ASSOCIATION OF LEGAL PROFESSIONALS OF SAN JOSE (ALP)
TENTATIVE AGREEMENT

TERM

Term: July 1, 2010 – June 30, 2011

PAY REDUCTION

Ongoing

Effective June 27, 2010, all salary ranges for employees holding positions in classifications assigned to ALP shall be decreased by approximately 4.75%. This will result in the top and bottom of the range of all classifications represented by ALP being 4.75% lower. All employees will receive a 4.75% base pay reduction.

One-Time

Effective June 27, 2010 through June 25, 2011, all employees represented by ALP will receive a 1.90% base pay reduction. This is in addition to the 4.75% base pay reduction that will be effective June 27, 2010.

HEALTH INSURANCE - COST SHARING

The City will provide health coverage for eligible full-time employees and their dependents in accordance with one of the available plans.

The City pays 90% of the cost of the lowest priced plan for the employee or the employee and dependent coverage and the employee pays 10% of the premium for the lowest priced plan.

Effective June 27, 2010, the City shall pay eighty-five percent (85%) of the full premium cost of the lowest priced plan for employee or employee and dependent coverage, and the employee will pay fifteen percent (15%) of the premium for the lowest priced plan for employee or for employee and dependent coverage. If an employee selects a plan other than the lowest priced plan, the employee shall pay the difference between the total cost of the selected plan and the City's contribution towards the lowest priced plan for employee or for employee and dependent coverage.

If the employee selects a plan other than the lowest priced plan, the employee pays the difference between the total cost of the selected plan and the City's contribution towards the lowest priced plan.

** Reimbursement/contribution is prorated for part-time employees based on hours scheduled:*

- 30 – 39 hours = 75%
- 25 – 29 hours = 62.5%
- 20 – 24 hours = 50%
- Less than 20 hours = none

**CITY OF SAN JOSE
AND
ASSOCIATION OF LEGAL PROFESSIONALS OF SAN JOSE (ALP)
TENTATIVE AGREEMENT**

HEALTH INSURANCE - HMO PLAN DESIGN

Effective July 1, 2010, the following plan design changes shall be implemented for all HMO plans:

- a. Office Visit Co-pay shall be increased to \$25
- b. Prescription Co-pay shall be increased to \$10 for generic and \$25 for brand name
- c. Emergency Room Co-pay shall be increased to \$100
- d. Inpatient/Outpatient procedure Co-pay shall be increased to \$100

HEALTH INSURANCE - DUAL COVERAGE

Health Insurance

An employee may not be simultaneously covered by City-provided medical benefits as a City employee, and as a dependent of another City employee or retiree.

Dental Insurance

An employee may not be simultaneously covered by City-provided dental benefits as a City employee, and as a dependent of another City employee or retiree.

HEALTH INSURANCE - HEALTH IN LIEU

The purpose of the payment-in-lieu of health and/or dental insurance program is to allow employees who have alternative health and/or dental insurance coverage to drop the City's insurance and receive a payment in lieu.

An employee may choose, during open enrollment or within thirty days of a qualifying event, to drop health and/or dental coverage and receive a payment in-lieu equal to one-half of the City's contribution toward health and/or dental coverage.

Effective June 27, 2010, employees who qualify for and participate in the payment in-lieu of health and/or dental insurance program will receive the following per payperiod:

	Health in-lieu	Dental in-lieu
If eligible for family coverage	\$221.84	\$19.95
If NOT eligible for family coverage	\$89.09	\$19.95

A City employee who receives healthcare coverage as a dependent of another City employee or retiree shall be deemed not eligible for family coverage.

An employee may choose, during open enrollment or within thirty days of a qualifying event, to drop health and/or dental coverage and receive a payment-in-lieu. To qualify, the employee must prove acceptable alternate group coverage and work 35+ hours/week.

**CITY OF SAN JOSE
AND
ASSOCIATION OF LEGAL PROFESSIONALS OF SAN JOSE (ALP)
TENTATIVE AGREEMENT**

DISABILITY LEAVE SUPPLEMENT

If required to be absent from work due to a work related illness or injury, employees may receive a supplement which, when added to the Workers' Compensation Temporary Disability, equals 85% of the employees' base salary, up to a maximum of six (6) months (1,040 hours if used intermittently).

Part-time and temporary employees are not eligible for this benefit.

MANDATORY UNPAID FURLOUGH DAYS

During Fiscal Year 2010-2011 (July 1, 2010 – June 30, 2011), all employees represented by ALP shall take twelve (12) mandatory unpaid furlough days. Employees shall be required to take a minimum of one (1) mandatory unpaid furlough day per month until all twelve (12) mandatory unpaid furlough days have been taken. Employees may select the unpaid mandatory furlough days, however, the City Attorney or Designee will have final approval over the unpaid mandatory furlough days prior to the employee taking mandatory unpaid furlough days.

The annual compensation, sick leave accruals, vacation accruals and seniority will be reduced in correlation with the reduced work hours for all employees represented by ALP. This means that, employees will earn less wages, sick leave, vacation and City Seniority (Civil Service only) during Fiscal Year 2010-2011.

Retirement contributions are paid by employees and the City at the established rates as a percentage of base salary. During the term of this agreement, both the City and the employees represented by ALP will continue to make contributions to the Retirement System for all paid hours and all regular hours that employees represented by ALP would have worked, but did not as a result of the mandatory unpaid furlough days, which equates to ninety-six (96) hours for Fiscal Year 2010-2011.

USE OF CONCESSIONS TO SAVE POSITIONS

Savings achieved from the terms of this agreement, shall be used to restore three (3) filled positions represented by ALP that are proposed to be eliminated as part of the Fiscal Year 2010-2011 Proposed Budget. In the event that ALP reopens this Agreement to the extent permitted by the Reopener provision, this Use of Concessions to Save Positions provision shall be null and void, and the City shall have no obligation to restore three (3) filled positions as described in this paragraph.

REOPENER

In the event that the City and AEA, AMSP, CAMP, OE#3, or IBEW reach a settlement or the City Council approves implementation of terms that achieves less than a 10% reduction in total compensation reduction for Fiscal Year 2010-2011, ALP may provide a written request to reopen the terms of this Agreement within ten (10) calendar days of the City Council approving such an agreement or implementation of terms with AEA, AMSP, CAMP, OE#3 or IBEW. This

CITY OF SAN JOSE
AND
ASSOCIATION OF LEGAL PROFESSIONALS OF SAN JOSE (ALP)
TENTATIVE AGREEMENT

provision shall also apply if the City Council approves terms for Unit 99 that achieves less than a 10% reduction in total compensation for Fiscal Year 2010-2011. Upon the City's receipt of ALP's written request to reopen negotiations and the existence of the facts described in this paragraph, the City and ALP shall meet and confer over matters within the scope of representation. The City and ALP agree that if ALP requests to reopen this Agreement, the City shall have no obligation to restore three (3) filled positions represented by ALP that are proposed to be eliminated as part of the Fiscal Year 2010-2011 Proposed Budget.

COMMENCEMENT OF NEGOTIATIONS

It is mutually agreed that the first meeting of the parties will be held in January 2011, after the City or ALP receives a written notice from the other requesting the commencement of negotiations.

Employees represented by ALP shall receive the benefits received by Unit 99 as of June 15, 2010 (including the Professional Development Program), unless modified herein, or unless and until the City provides reasonable advance notice of any changes to any benefits within the scope of bargaining.

Although the ALP bargaining unit has agreed to and ratified this Tentative Agreement, the City and ALP acknowledge that this Tentative Agreement shall not be a final and binding Agreement until it has been presented to and approved by the City Council.


If approved by the City Council, the terms and conditions contained in this Tentative Agreement represent the full, complete, and entire understanding of the parties about matters within the scope of representation. Any terms and conditions or matter within the scope of representations not included in this document shall not be included in this tentative agreement.

FOR THE CITY:

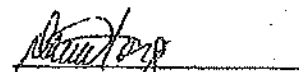
FOR THE UNION:


Aracely Rodriguez
Senior Executive Analyst

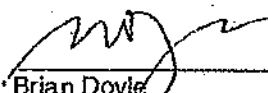
6/15/10
Date


William Clark
ALP President

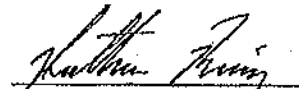
6/15/10
Date


Dan Tong
Chief of Staff

6/15/10
Date


Brian Doyle
ALP Representative

6/15/10
Date


Heather Ruiz
Deputy Director

6/15/10
Date

RESOLUTION NO. 75813

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE APPROVING AN AGREEMENT BETWEEN THE CITY OF SAN JOSE AND THE ASSOCIATION OF LEGAL PROFESSIONALS OF SAN JOSE (ALP), WITH A TERM OF JULY 1, 2011 – JUNE 30, 2012

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SAN JOSE:

1. That the Agreement between the City of San José and the Association of Legal Professionals of San Jose (ALP), with a term of July 1, 2011 – June 30, 2012, is hereby approved. The City Manager is hereby authorized to execute an Agreement on behalf of the City of San José.
2. The general terms of the Agreement are set out and described in the Memorandum to the Mayor and City Council from the Director of Employee Relations, dated May 27, 2011, and attached hereto as Attachment A and incorporated in this Resolution.

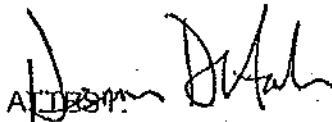
ADOPTED this 31st day of May, 2011, by the following vote:

AYES: CONSTANT, HERRERA, LICCARDO, NGUYEN,
OLIVERIO, PYLE, ROCHA, REED.

NOES: CAMPOS, CHU, KALRA.

ABSENT: NONE.

DISQUALIFIED: NONE.


ATTEST:

DENNIS D. HAWKINS, CMC
City Clerk



CHUCK REED
Mayor

75813

COUNCIL AGENDA: 05-31-11
ITEM: 3.5



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Gina Donnelly

SUBJECT: SEE BELOW

DATE: May 27, 2011

Approved

Date

5-27-11

SUBJECT: APPROVAL OF THE TERMS OF AN AGREEMENT WITH THE
ASSOCIATION OF LEGAL PROFESSIONALS (ALP)

SUPPLEMENTAL

REASON FOR SUPPLEMENTAL MEMORANDUM

Item 3.5 on the City Council Agenda is for approval of an agreement or implementation of terms contained in the City's Last, Best, and Final Offer with the Association of Legal Professionals (ALP). The Memorandum dated May 17, 2011, includes the terms of the City's Last, Best, and Final Offer. A Mediated Tentative Agreement was reached with ALP on May 27, 2011, that achieves a total compensation reduction of 10%, and this Memorandum outlines the terms of that Mediated Tentative Agreement. This Mediated Tentative Agreement was ratified by the ALP membership on May 27, 2011.

RECOMMENDATION

Adoption of a resolution to approve the terms of a collective bargaining agreement between the City and ALP, and authorizing the City Manager to execute an agreement with a term of July 1, 2011, to June 30, 2012.

BACKGROUND

The City of San Jose provided ALP with its Last, Best, and Final Offer on May 12, 2011. The elements of the Last, Best, and Final Offer were contained in the Memorandum dated May 17, 2011.

On May 27, 2011, the City and ALP reached a Mediated Tentative Agreement, which reaches a total compensation reduction of 10%. ALP took this Mediated Tentative Agreement to their membership on May 27, 2011, and the City has been notified that it has been ratified.

GURZA000219

HONORABLE MAYOR AND CITY COUNCIL
 May 27, 2011
 Subject: Approval of an Agreement with ALP
 Page 2 of 4

ANALYSIS

A complete copy of the Mediated Tentative Agreement is attached. The following is a summary of the key provisions:

Base Pay Reduction - Ongoing Effective June 26, 2011, all salary ranges for employees represented by ALP shall be decreased by approximately 5.39%. All employees represented by ALP shall receive a 5.39% base pay reduction.

Effective June 25, 2011, the mandatory unpaid furlough days program in the agreement for Fiscal Year 2010-2011 will cease. This means that employees represented by ALP will no longer be eligible for unpaid furlough days.

Disability Leave Effective June 26, 2011, reduce the maximum disability supplemental pay benefit from six (6) calendar months to three (3) calendar months (520 hours).

Employees will be allowed to integrate accrued vacation and accrued sick leave.

Subsidy for Public Transit. After calendar year 2011, the City will no longer provide employees with an ECO-Pass. Upon exhaustion of the current supply of Commuter Check Vouchers, Vouchers will no longer be available for purchase from the City.

Vacation Sellback Effective December 25, 2011, reduce vacation sellback eligibility from a maximum of 120 hours to a maximum of 60 hours. Employees must submit an irrevocable election form to Payroll on or before November 26, 2011, to be eligible to sell back accrued vacation in 2012.

Commencement of Negotiations Each party agrees to meet and confer over the following issues within ten (10) days of written notice from the other party:

1. The Supplemental Retiree Benefit Reserve program (SRBR).
2. Retirement Reform including:
 - a. Pension and retiree healthcare benefits for future employees,
 - b. Pension and retiree healthcare benefits for current employees, including, but not limited to, modification of healthcare (medical and dental) plans available to current employees and/or plan design, to the extent that these benefits fall within the scope of representation.
3. Sick Leave Payout for current and future employees to the extent that this benefit falls within the scope of representation.

ALP's agreement to bargain shall not be considered a waiver, reduction, or modification of vested benefits. Likewise, the City is not waiving any rights it has under the MMBA, including the right to lawfully implement changes to matters within the scope of representation after providing ALP with notice and an opportunity to bargain in good faith and to participate in impasse procedures. Nothing in this section is intended to expand the City's rights under the MMBA. The City will provide ALP notice at least fourteen (14) days in advance of the effective date of any change in benefits.

HONORABLE MAYOR AND CITY COUNCIL
May 27, 2011
Subject: Approval of an Agreement with ALP
Page 3 of 4

EVALUATION AND FOLLOW-UP

None.

PUBLIC OUTREACH/INTEREST

- ☒ Criteria 1: Requires Council action on the use of public funds equal to \$1 million or greater. (Required: Website Posting)
- ☐ Criteria 2: Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. (Required: E-mail and Website Posting)
- ☐ Criteria 3: Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. (Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)

This item meets Criterion 1. This memorandum will be posted on the City's website for the May 31, 2011, Council Agenda.

COST IMPLICATIONS

For Fiscal Year 2010-2011, ALP agreed to concessions that achieved a 10% total compensation reduction, 5% ongoing and 5% one-time. These concessions included ongoing and one-time base pay reductions, and mandatory unpaid furlough days for Fiscal Year 2010-2011. Effective June 25, 2011, the one-time concessions agreed to in Fiscal Year 2010-2011 will cease and will be replaced with the terms described in this memorandum.

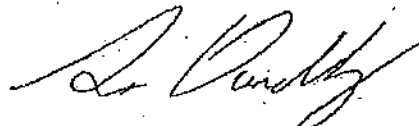
As directed in the Mayor's March 2011, Budget Message as approved by the City Council, the budgetary savings associated with this action are assumed in the 2011-2012 Proposed Operating Budget which was released on May 2, 2011, as well as the 2011-2012 Proposed Fees and Charges document released on May 7, 2011. The terms of the Tentative Agreement achieve a 10% ongoing total compensation reduction generate additional ongoing savings of approximately \$323,000 in all funds and approximately \$262,000 in the General Fund based on the positions included in the 2011-2012 Proposed Operating Budget. These savings do not include any adjustments necessary to maintain the annual required retirement contributions and the associated change in overhead reimbursements to the General Fund from other funds. These savings also do not include the currently unknown cost increases for healthcare for the second half of Fiscal Year 2011-2012.

HONORABLE MAYOR AND CITY COUNCIL
May 27, 2011
Subject: Approval of an Agreement with ALP
Page 4 of 4

75813

CEQA

CEQA: Not a Project, File No. PP10-069(b), Personnel Related Decisions,



Gina Donnelly
Deputy Director of Employee Relations

For questions please contact Gina Donnelly, Deputy Director of Employee Relations, at (408) 535-8150.

Attachment

GURZA000222

Mediated Tentative Agreement
City of San Jose
And
Association of Legal Professionals (ALP)

75813

TERM

July 1, 2011 – June 30, 2012

WAGES

See attached

VACATION SELLBACK

See attached

DISABILITY LEAVE SUPPLEMENT

See attached

SUBSIDY FOR PUBLIC TRANSIT

See attached

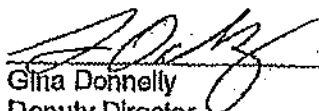
COMMENCEMENT OF NEGOTIATIONS


See attached

This agreement is still considered tentative and shall not be considered final or binding until ratified by the membership and approved by the City Council. This document sets forth the full agreements of the parties reached during these negotiations. Anything not included in this document is not part of the Mediated Tentative Agreement. The parties understand that should this Mediated Tentative Agreement fail to be ratified by the membership on or before May 27, 2011, the City shall revert to its Last, Best, and Final Offers.

FOR THE CITY:

FOR THE UNION:

 06/27/11
Gina Donnelly Date
Deputy Director

PO  5-27-11
Ellen Donnelly Date
ALP Secretary

City of San Jose
May 27, 2011

GURZA000223

75813

Mediated Tentative Agreement

WAGES

Proposed Language:

Effective June 27, 2010, all salary ranges for employees holding positions in classifications assigned to ALP shall be decreased by approximately 4.75%. This will result in the top and bottom of the range of all classifications represented by ALP being 4.75% lower. All employees will receive a 4.75% base pay reduction.

Effective June 28, 2011, all salary ranges for employees holding positions in classifications assigned to ALP shall be decreased approximately by an additional 5.39%. This will result in the top and bottom of the range of all classifications represented by ALP being an additional 5.39% lower. All employees will receive an additional 5.39% base pay reduction.


This language is intended to:

- *Replace the section entitled "Pay Reduction" in the ALP Tentative Agreement dated June 15, 2010, and delete the section entitled "Mandatory Unpaid Furlough Days" in the ALP Tentative Agreement dated June 15, 2010.*

FOR THE CITY:

FOR THE UNION:

 05/27/11
Gina Donnelly Date
Deputy Director

30  5-27-11
Ellen Donnelly Date
ALP Secretary

City of San Jose
May 27, 2011

GURZA000224

Mediated Tentative Agreement

VACATION SELLBACK

Proposed Language:

ALP represented employees are eligible to sell back one hundred twenty (120) hours of accrued vacation per payroll calendar year.

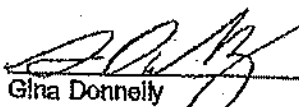
Effective December 25, 2011, employees may elect to sell back up to a maximum of sixty (60) hours of vacation accrued in 2012 and in accordance with the guidelines set below.

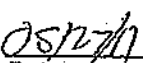
The City shall administer the vacation sellback program as described in the 6 bullet points listed below:

- ALP represented employees must elect the number of vacation hours they will sell back during 2012, up to the maximum of sixty (60) hours, by November 28, 2011.
- The election to sell back vacation hours in 2012 is *irrevocable*. This means that ALP represented employees must sell back the elected number of accrued vacation hours during 2012.
- ALP represented employees who do not make an election or who do not submit an irrevocable election form to Payroll on or before November 28, 2011, will not be eligible to sell back any vacation hours in 2012.
- ALP represented employees can elect to sell back only vacation hours accrued during 2012, and any vacation hours accrued and carried over prior to 2012 are not eligible for sell back in 2012.
- Any vacation hours accrued in 2012 by ALP represented employees will not be available for use until the employee's accrued vacation hours in 2012 equal the number of hours the employee has elected to sell back in 2012. Then, only those vacation hours accrued in 2012 over the number of hours an ALP represented employee elected to sell back in 2012 will be available for use by the employee. This means that hours elected for sell back may only be used for sell back purposes and cannot be used for vacation time off purposes.
- ALP represented employees may still use any vacation hours accrued and carried over prior to 2012, subject to the normal rules of requesting use of vacation. Any vacation hours accrued and carried over prior to 2012 are not eligible for sell back.

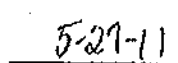
FOR THE CITY:

FOR THE UNION:


Gina Donnelly
Deputy Director


Date


Ellen Donnelly
ALP Secretary


Date

City of San Jose
May 27, 2011

Mediated Tentative Agreement

DISABILITY LEAVE SUPPLEMENT**Proposed Language:**

Effective June 26, 2011, if required to be absent from work due to a work related illness or injury, employees may receive a supplement which, when added to the Workers' Compensation Temporary Disability, equals 85% of the employees' base salary, up to a maximum of three (3) months (520 hours if used intermittently) for any current or future work-related injury or illness. Any employee who has exceeded three (3) months (or 520 hours if not continually absent) as of June 26, 2011, will no longer be eligible to receive DLS.

After the maximum time limit specified above, the integration of an employee's available leave will occur in the following order: (1) accrued Vacation hours, and (2) accrued Sick Leave once Vacation has been exhausted.

In no event shall an employee receive an amount, including any Workers' Compensation Temporary Disability payments, in excess of the employee's regular base salary.

Part-time and temporary employees are not eligible for this benefit.

This language is intended to:


- * Replace the section entitled "Disability Leave Supplement" in the ALP Tentative Agreement dated June 15, 2010.

FOR THE CITY:


Gina Donnelly
Deputy Director

05/27/11
Date

FOR THE UNION:


Ellen Donnelly
ALP Secretary

5-27-11
Date

City of San Jose
May 27, 2011

GURZA000226

Mediated Tentative Agreement

COMMENCEMENT OF NEGOTIATIONS

The following language shall replace, in its entirety, "COMMENCEMENT OF NEGOTIATIONS" section of the ALP Tentative Agreement dated June 15, 2010.

It is mutually agreed that the first meeting of the parties will be held in January 2012, after the City or ALP receives a written notice from the other requesting the commencement of negotiations.

The terms and conditions contained in this Tentative Agreement represent the full, complete, and entire understanding of the parties regarding the matters set forth herein. Employees represented by ALP shall receive all of the benefits received by Unit 99 effective June 15, 2010, unless explicitly modified by the Tentative Agreement dated June 15, 2010, and/or by this agreement. It is understood that neither party may require the other party to meet and confer over any subject covered by this Tentative Agreement except as provided herein. Notwithstanding the foregoing, each party agrees to meet and confer over the following issues within ten (10) days of written notice from the other party:

1. The Supplemental Retiree Benefit Reserve program.
2. Retirement Reform including:
 - a. Pension and retiree healthcare benefits for future employees,
 - b. Pension and retiree healthcare benefits for current employees, including, but not limited to, modification of healthcare (medical and dental) plans available to current employees and/or plan design, to the extent that these benefits fall within the scope of representation.
3. Sick Leave Payout for current and future employees to the extent that this benefit falls within the scope of representation.

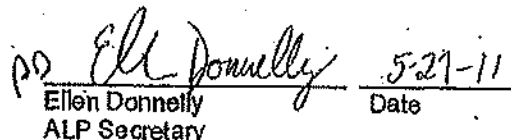
ALP's agreement to bargain shall not be considered a waiver, reduction, or modification of vested benefits. Likewise, the City is not waiving any rights it has under the MMBA, including the right to lawfully implement changes to matters within the scope of representation after providing ALP with notice and an opportunity to bargain in good faith and to participate in impasse procedures. Nothing in this section is intended to expand the City's rights under the MMBA. The City will provide ALP notice at least fourteen (14) days in advance of the effective date of any change in benefits.

FOR THE CITY:

FOR THE UNION:


Gina Donnelly
Deputy Director

05/27/11
Date


Ellen Donnelly
ALP Secretary

5-27-11
Date

City of San Jose
May 27, 2011

GURZA000227

Mediated Tentative Agreement**PUBLIC TRANSIT SUBSIDY (ECO-PASS AND SUBSIDIZED COMMUTER CHECK VOUCHER PROGRAM)****ECO-Pass**

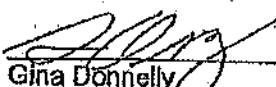
After calendar year 2011, the City will no longer provide employees an ECO-Pass. This means that any employee in possession of a 2011 ECO-Pass provided by the City may continue its use through calendar year 2011. Beginning calendar year 2012, the City will cease providing an ECO-Pass.


Commuter Check Program

Upon exhaustion of the current supply of Commuter Check Vouchers, the Vouchers will no longer be available to employees for purchase from the City. This means that the subsidized Commuter Check Voucher Program is eliminated after the current supply of Commuter Check Vouchers are exhausted.

FOR THE CITY:

FOR THE UNION:

 05/27/11
Gina Donnelly Date
Deputy Director

 5-27-11
Ellen Donnelly Date
ALP Secretary

City of San Jose
May 27, 2011

GURZA000228

RESOLUTION NO 75452

A RESOLUTION OF THE COUNCIL OF THE CITY OF
SAN JOSE APPROVING AN AGREEMENT BETWEEN THE
CITY OF SAN JOSE AND THE ASSOCIATION OF
MAINTENANCE SUPERVISORY PERSONNEL (AMSP), WITH A
TERM OF JULY 1, 2010 - JUNE 30, 2011

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SAN JOSE:

1. That the Agreement between the City of San José and the Association of Maintenance Supervisory Personnel (AMSP) with a term of July 1, 2010 to June 30, 2011 is hereby approved.
2. The terms of the Agreement with AMSP are set out and described in the Supplemental Memorandum to the Mayor and City Council from the Director of Employee Relations, dated June 21, 2010, attached hereto as Attachment A, and incorporated in this Resolution.

ADOPTED this 22nd day of June, 2010, by the following vote:

AYES: CAMPOS, CHIRCO, CHU, CONSTANT, HERRERA,
KALRA, LICCARDO, NGUYEN, OLIVERIO, PYLE; REED.

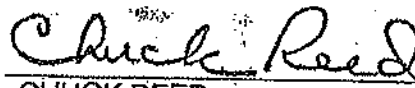
NOES: NONE.

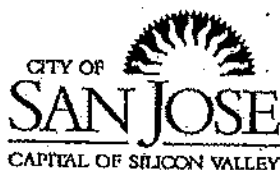
ABSENT: NONE.

DISQUALIFIED: NONE.

ATTEST:


LEE PRICE, MMC
City Clerk


CHUCK REED
Mayor



SUPPLEMENTAL

COUNCIL AGENDA: 06/22/10

ITEM: 3.14

Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Alex Gurza

SUBJECT: SEE BELOW

DATE: June 21, 2010

Approved

Date

SUBJECT: APPROVAL OF AN AGREEMENT WITH THE ASSOCIATION OF
MAINTENANCE SUPERVISORY PERSONNEL (AMSP)

SUPPLEMENTAL

REASON FOR SUPPLEMENTAL MEMORANDUM

Item 3.14 on the City Council Agenda is for approval of an agreement or implementation of terms contained in the City's Last, Best and Final Offer to the Association of Maintenance Supervisory Personnel (AMSP). The Memorandum dated June 4, 2010, includes the terms of the City's Last, Best and Final Offer. A tentative agreement was reached with AMSP on June 21, 2010, that achieves a total compensation reduction of 10% (5% ongoing and 5% one-time), and this Memorandum outlines the terms of that tentative agreement.

It is recommended that the City Council authorize the execution of an agreement for the period of July 1, 2010 through June 30, 2011, between the City and the Association of Maintenance Supervisory Personnel (AMSP).

BACKGROUND

The City of San Jose provided AMSP with its Last, Best and Final Offer on May 28, 2010. The elements of the Last, Best and Final Offer were contained in the Memorandum dated June 4, 2010.

This item was originally on the City Council Agenda for June 15, 2010, but was deferred until June 17, 2010. During the meeting on June 17, 2010, the City Council decided to again delay that decision until June 22, 2010, to allow the City and the bargaining unit time for further discussions.

The City and five bargaining units met on June 18, 2010. The City and the bargaining units developed language that, if ratified by the members, would be recommended by the City Manager for approval by the City Council. This draft language reached the 10% total compensation reduction, 5% ongoing and 5% one-time. It also avoided any City Charter issues that were previously identified with the bargaining units' prior proposal.

GURZA000230

HONORABLE MAYOR AND CITY COUNCIL
June 21, 2010
Subject: Approval of an Agreement with AMSP
Page 2 of 3

AMSP took this language to their membership on June 21, 2010, and the City has been notified that the membership ratified the language. Following confirmation of ratification, the City executed a tentative agreement. A complete copy of the tentative agreement is attached.

ANALYSIS

The following is a summary of terms contained in the tentative agreement with AMSP that are recommended to be implemented upon approval by the City Council:

Term	July 1, 2010 - June 30, 2011
First 5% Ongoing Total Compensation Reduction	<p>Effective June 27, 2010, employees will make an additional retirement contribution in the amount of 7.45% of pensionable compensation, and this amount will be applied to reduce the contributions that the City would otherwise be required to make during that time period for the pension unfunded liability. This additional employee retirement contribution would be in addition to the employee retirement contribution rates as approved by the Federated City Employees' Retirement System Board.</p> <p>In the event the additional retirement contribution cannot be implemented or is ceased for any reason, employees would instead have an ongoing base pay reduction in the equivalent amount of 5% in total compensation.</p>
Additional 5% One-Time Total Compensation Reduction-Retirement Contributions	<p>Effective June 27, 2010 through June 25, 2011, employees will make an additional retirement contribution in the amount of 3.55% of pensionable compensation, and this amount will be applied to reduce the contributions that the City would otherwise be required to make during that time period for the pension unfunded liability. This additional employee retirement contribution would be in addition to the employee retirement contribution rates as approved by the Federated City Employees' Retirement System Board.</p> <p>In the event the additional retirement contribution cannot be implemented or is ceased for any reason, employees would instead have their base pay temporarily reduced by the equivalent amount.</p>
Additional 5% One-Time Total Compensation Reduction-Base Pay Reduction	<p>Effective June 27, 2010 through June 25, 2011, all full-time employees and part-time employees in the Federated City Employees' Retirement System shall receive a 2.9% temporary base pay reduction. This will result in the top and bottom steps of the range being 2.9% lower.</p>

**Contingency
Provision**

In the event that the additional employee retirement contributions described above are not implemented for any reason by October 1, 2010, or the Federated City Employees' Retirement System Board's actuary concludes that the City's contribution rate could not be reduced by a commensurate amount, the equivalent amount of total compensation shall be taken as a base pay reduction and will increase on a pro-rata basis over the remaining pay periods in the Fiscal Year to achieve the equivalent total compensation reduction.

In the event that the additional employee retirement contributions described above are ceased for any reason thereafter, or the Federated City Employees' Retirement System Board's actuary concludes that the City's contribution rate could not be reduced by the commensurate amount after beginning such deductions, the equivalent amount of total compensation shall be taken as a base pay reduction.

**Commencement of
Negotiations**

It is mutually agreed that the first meeting of the parties will be held no later than fifteen (15) days after the City or Association receives notice from the other, which may be any date after January 1 of the year in which the current contract terminates.

COST IMPLICATIONS

These terms meet the goal of a 10% total compensation reduction, including 5% in an ongoing total compensation reduction and another 5% in a one-time total compensation reduction. The approval of this tentative agreement will reduce the total compensation for employees represented by the Association of Maintenance Supervisory Personnel (AMSP). The calculated savings to the City is approximately \$1.0 million in all funds and approximately \$0.3 million in the General Fund. These cost savings are projected based on the Fiscal Year 2010-2011 Proposed Budget. It should be noted, however, that the actual amount of General Fund and all funds savings would need to be adjusted to reflect final budget approval by the City Council, any associated impacts on revenue from lower overhead or other reimbursements, and any adjustments to the cost-recovery fee program.



Alex Gurza
Director of Employee Relations

For questions please contact Alex Gurza, Director of Employee Relations, at (408) 535-8150.

AMSP

TERM

July 1, 2010-June 30, 2011

ADDITIONAL RETIREMENT CONTRIBUTIONS

ON-GOING ADDITIONAL RETIREMENT CONTRIBUTIONS

Effective June 27, 2010, all employees who are members of the Federated City Employees' Retirement System will make additional retirement contributions in the amount of 7.45% of pensionable compensation, and the amounts so contributed will be applied to reduce the contributions that the City would otherwise be required to make for the pension unfunded liability, which is defined as all costs in both the regular retirement fund and the cost-of-living fund, except current service normal costs in those funds. This additional employee retirement contribution would be in addition to the employee retirement contribution rates that have been approved by the Federated City Employees' Retirement System Board. The intent of this additional retirement contribution by employees is to reduce the City's required pension retirement contribution rate by a commensurate 7.45% of pensionable compensation, as illustrated below:

Federated			
	City	Employee	Total
Current Contribution Rates	29.59%	10.30%	39.89%
Contribution Rates With Additional Employee Contributions	22.14%	17.75%	39.89%

Note: Additional contributions made by employees do not affect the retiree healthcare rates.

ONE-TIME ADDITIONAL RETIREMENT CONTRIBUTIONS (Fiscal Year 2010-2011)

In addition to the retirement contributions specified above, effective June 27, 2010, through June 25, 2011, all employees will make an additional retirement contribution in the amount of 3.55% of pensionable compensation, and the amounts so contributed will be applied to reduce the contributions that the City would otherwise be required to make during that time period for the pension unfunded liability, which is defined as all costs in both the regular retirement fund and the cost-of-living fund, except current service normal costs in those funds. This additional employee retirement contribution would be in addition to the employee retirement contribution rates that have been approved by the Federated City Employees' Retirement System Board.

TREATMENT OF ADDITIONAL EMPLOYEE CONTRIBUTIONS

Both the on-going and one-time additional retirement contributions shall be treated in the same manner as any other employee contributions. Accordingly, the intent of these additional payments will be made on a pre-tax basis through payroll deductions pursuant to IRS Code Section 414(h)(2) and will be subject to withdrawal, return and redeposit in the same manner as any other employee contributions.

W. Dale P. [Signature] 6/18/2010

Phyllis L. Schuly 6/18/2010

For the City: *[Signature]* 6/18/2010

GURZA000233

IMPLEMENTATION OF ADDITIONAL RETIREMENT CONTRIBUTIONS AND MISSED CONTRIBUTIONS

It is the intent of the parties that the employees pay the entire annual amount of the additional retirement contributions for the 2010-2011 Fiscal Year. Since the additional on-going and one-time employee contributions will not be implemented by June 27, 2010, when the additional employee contributions are implemented in the City's payroll system the Finance Department will compute the rate that will generate the total amount of additional retirement contributions over the remaining pay periods in the fiscal year as if the contribution rate had been implemented on June 27, 2010.

For example, if the additional contributions do not begin until August 22, 2010 (pay period #18) the additional employee contributions for each of the subsequent pay periods in the 2010-2011 Fiscal Year will be recalculated by the Finance Department so that 100% of the additional employee contributions are made by the end of the fiscal year.

The parties understand that in order to implement this provision, an amendment must be made to the Federated City Employees' Retirement System that requires an ordinance amending the San Jose Municipal Code. In addition, the parties understand that the City will request that the Federated City Employees' Retirement System Board have its actuary confirm that an increase of the employee contribution will reduce the City's contribution rate by a commensurate amount.

CONTINGENCY PROVISION

In the event that the additional employee retirement contributions described above are not implemented for any reason by October 1, 2010, or the Federated City Employees' Retirement System Board's actuary concludes that the City's contribution rate could not be reduced by a commensurate amount, the equivalent amount of total compensation shall be taken as a base pay reduction and will increase on a pro-rata basis over the remaining pay periods in the fiscal year to achieve the equivalent total compensation reduction.

In the event that the additional employee retirement contributions described above are ceased for any reason thereafter, or the Federated City Employees' Retirement System Board's actuary concludes that the City's contribution rate could not be reduced by the commensurate amount after beginning such deductions, the equivalent amount of total compensation shall be taken as a base pay reduction.

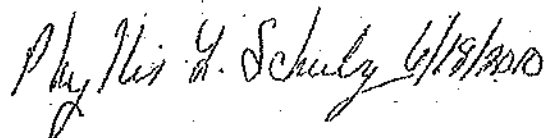
BALANCE TO EQUAL 10% OF TOTAL COMPENSATION

Effective June 27, 2010 through June 25, 2011, all employees shall receive a 2.9% temporary base pay reduction. This will result in the top and bottom steps of the range being 2.9% lower.

COMMENCEMENT OF NEGOTIATIONS

It is mutually agreed that the first meeting of the parties will be held no later than fifteen (15) calendar days after the City or Association receives notice from the other, which may be any date after January 1 of the year in which the current contract terminates.

 6/18/2010

 6/18/2010

For the City:

 06/21/10

RESOLUTION NO. 75778

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE APPROVING AN AGREEMENT BETWEEN THE CITY OF SAN JOSE AND THE ASSOCIATION OF MAINTENANCE SUPERVISORY PERSONNEL (AMSP), WITH A TERM OF JULY 1, 2011 – JUNE 30, 2013

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SAN JOSE:

1. That the Tentative Agreement between the City of San José and the Association of Maintenance Supervisory Personnel (AMSP) with a term of July 1, 2011 to June 30, 2013 is hereby approved.
2. The terms of the Tentative Agreement with AMSP are set out and described in the Memorandum to the Mayor and City Council from the Director of Employee Relations, dated April 5, 2011, attached hereto as Attachment A, and incorporated in this Resolution and the City Manager is authorized to execute an agreement with those terms on behalf of the City of San Jose.

ADOPTED this 19th day of April, 2011, by the following vote:

AYES: CAMPOS, CHU, CONSTANT, HERRERA, KALRA,
NGUYEN, OLIVERIO, PYLE, ROCHA; REED.

NOES: LICCARDO.

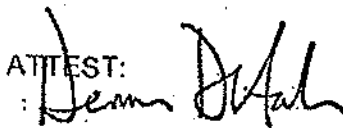
ABSENT: NONE.

DISQUALIFIED: NONE.



CHUCK REED
Mayor

ATTEST:



DENNIS D. HAWKINS, CMC
City Clerk

RD:EJM
4/7/11

RES. NO. 75778

ATTACHMENT A



COUNCIL AGENDA: 04-19-11
ITEM: 3.4

Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Alex Gurza

SUBJECT: SEE BELOW

DATE: April 5, 2011

Approved

Date

4/5/11

SUBJECT: APPROVAL OF THE TERMS OF AN AGREEMENT WITH THE
ASSOCIATION OF MAINTENANCE SUPERVISORY PERSONNEL
(AMSP)

COUNCIL DISTRICT: N/A
SNI AREA: N/A

RECOMMENDATION

Adoption of a resolution approving the terms of a collective bargaining agreement between the City and the Association of Maintenance Supervisory Personnel (AMSP), and authorizing the City Manager to execute an agreement with a term of July 1, 2011, through June 30, 2013.

OUTCOME

Adoption of the resolution and authorization to execute an agreement would result in a collective bargaining agreement between the City of San Jose and the Association of Maintenance Supervisory Personnel (AMSP) for the period of July 1, 2011, through June 30, 2013.

EXECUTIVE SUMMARY

The City of San Jose and the Association of Maintenance Supervisory Personnel (AMSP) reached a Tentative Agreement on March 23, 2011, for a successor agreement. The Tentative Agreement was ratified by the membership on March 28, 2011.

The City Administration is recommending approval of the Tentative Agreement for the period of July 1, 2011, through June 30, 2013. The agreement achieves a ten percent (10%) ongoing total compensation reduction (base pay and healthcare changes), changes to the disability leave supplement and vacation rollback programs, and side letters to continue negotiations on several reforms to include retirement for current and new employees, sick leave payout, the Supplemental Retirement Benefit Reserve (SRBR), layoff procedures, subsidy for Public Transit, and contracting out.

Council Agenda: 4/19/11
Item No: 3.4

GURZA000236

MEMORANDUM FOR THE CITY COUNCIL
April 5, 2011
Subject: Approval of an Agreement with AMSP
Page 2 of 7

BACKGROUND

In November 2010, the City Council in open session approved a goal of reducing the total ongoing employee compensation for all City employees by ten percent (10%). "Total Compensation" is the total cost to the City of pay and benefits, including base pay, retirement contributions, health insurance and other benefits. Total compensation is calculated using budgeted salary and fringe benefit costs for the bargaining unit.

In addition to the 10% ongoing total compensation reduction approved in November 2010, the City Council approved the following reforms: retirement reform, including 2nd tier pension and retiree healthcare benefits for new hires; options for current employees; SRBR or the "13th Check;" sick leave payout; disability leave supplement; vacation sellback; and compensation structure.

The Association of Maintenance Supervisory Personnel, hereafter referred to as "AMSP," currently represents approximately seventy-nine (79) full time budgeted positions. This unit includes employees in classifications such as Maintenance Superintendent and Maintenance Supervisor. AMSP represents mid-management employees who receive management benefits and are eligible for overtime.

In June 2010, AMSP agreed to a 10% total compensation reduction. The first 5% ongoing total compensation reduction was achieved through additional retirement contributions to be made by employees represented by AMSP to offset the City's retirement costs. The second 5% one-time total compensation reduction was achieved through additional retirement contributions and a base pay reduction. The ongoing and one-time additional retirement contributions made by employees represented by AMSP to offset the City's retirement costs and the one-time base pay reduction will cease effective June 25, 2011, and the terms of the new agreement will replace the total compensation reduction on an ongoing basis.

AMSP's current agreement expires on June 30, 2011. The City commenced negotiations for successor agreements with five (5) bargaining units, including AMSP, in January 2011. The City and AMSP, along with two (2) other bargaining units, reached Tentative Agreements on March 23, 2011, that achieves a 10% ongoing total compensation reduction and includes agreements to continue negotiations on other reforms that were approved by the City Council as listed above. The Tentative Agreement was ratified by the AMSP membership on March 28, 2011.

ANALYSIS

A complete copy of the Tentative Agreement is attached. The following is a summary of the key provisions:

Term: July 1, 2011 – June 30, 2013

HONORABLE MAYOR AND CITY COUNCIL
April 5, 2011
Subject: Approval of an Agreement with AMSIP
Page 3 of 7

**Base Pay
Reduction -
Ongoing**

Effective June 26, 2011, all salary ranges for employees represented by AMSIP shall be decreased by approximately 10.1%. All employees represented by AMSIP shall receive a 10.1% base pay reduction.

Effective June 25, 2011, the City will cease one-time and ongoing additional employee retirement contributions that offset the City's retirement contribution rates and stop one-time base pay concessions made in Fiscal Year 2010-2011.

**Healthcare
Cost Sharing**

Currently, the City pays ninety percent (90%) of the full premium cost of the lowest cost plan for employee or for employee and dependent coverage, and the employee pays ten percent (10%) of the premium for the lowest priced plan for employee or employee and dependent coverage.

Effective pay date July 1, 2011, the City will pay eighty-five percent (85%) of the full premium cost of the lowest cost plan for employee or for employee and dependent coverage, and the employee will pay fifteen percent (15%) of the premium for the lowest priced plan for employee or employee and dependent coverage.

**Healthcare
HMO Plan
Design**

The current HMO Plan Design provides for \$10 office visit co-pay, \$5 generic and \$10 brand name prescription co-pays, and a \$50 emergency room co-pay.

Effective pay date July 1, 2011, a \$25 co-pay plan shall be implemented for all HMO plans, including the following changes:

- a. \$25 office visit co-pay
- b. \$10 generic/\$25 brand name prescription co-pay
- c. \$100 emergency room co-pay
- d. \$100 inpatient/outpatient procedures co-pay

**Healthcare
Payment-In-
Lieu**

Currently, employees who have either health and/or dental coverage are eligible for a health-in-lieu and/or dental-in-lieu amount of 50% of the City's premium. This results in a formula that increases the City's costs towards healthcare increases. The current in-lieu amounts are as follows:

	<u>Health-In-Lieu</u>	<u>Dental-In-Lieu</u>
If eligible for family coverage:	\$272.74	\$23.75
If NOT eligible for family coverage:	\$109.54	\$23.75

Effective pay date July 1, 2011, employees who qualify for and participate in the payment-in-lieu of health and/or dental insurance program will receive the following per pay period:

HONORABLE MAYOR AND CITY COUNCIL
April 5, 2011
Subject: Approval of an Agreement with AMSP
Page 4 of 7

	<u>Health-In-Lieu</u>	<u>Dental-In-Lieu</u>
If eligible for family coverage:	\$221.84	\$19.95
If NOT eligible for family coverage:	\$89.09	\$19.95

A City employee who receives healthcare coverage as a dependent of another City employee or retiree shall be deemed not eligible for family coverage.

Healthcare Dual Coverage Effective pay date July 1, 2011, employees may no longer be simultaneously covered by City-provided medical and/or dental benefits as a City employee and as a dependent of another City employee or retiree.

Vacation Sellback Effective December 25, 2011, reduce vacation sellback eligibility from a maximum of 96 hours to a maximum of 48 hours. Employees must submit an irrevocable election form to Payroll on or before November 26, 2011, to be eligible to sell back accrued vacation in 2012.

Effective the first pay period of payroll calendar year 2013, the vacation sellback program will be eliminated and no employees will be eligible to sell back any accrued vacation hours.

Disability Leave Effective June 26, 2011, reduce the maximum disability supplemental pay benefit from nine (9) calendar months to three (3) calendar months (520 hours).

Effective June 24, 2012, disability leave supplement will be eliminated.

Employees will be allowed to integrate accrued vacation and accrued sick leave.

Side Letters

- Retirement Reform - The City and AMSP agree to continue meeting and conferring on pension and retiree healthcare benefits for current and future employees. The negotiations may include modification of healthcare (medical and dental) plans available to current employees, including but not limited to plan design.

- Sick Leave Payout - The City and AMSP agree to continue meeting and conferring on sick leave payout for current and future employees.

- Layoff - Either the City or AMSP may provide notice to the other of its request to meet and confer on modifications, if any, to the City's layoff process and procedures.

- Supplemental Retiree Benefit Reserve (SRBR) - The City and AMSP agree to discuss the SRBR program in the Federated City Employees' Retirement System.

HONORABLE MAYOR AND CITY COUNCIL
April 5, 2011
Subject: Approval of an Agreement with AMSP
Page 5 of 7

- * Subsidy for Public Transit -- The City and AMSP agree to discuss the programs available to employees that provide subsidy for public transit.
- * Contracting Out -- The City agrees to meet and confer with AMSP prior to contracting out work currently performed by bargaining unit members whenever such contracting out would result in a material reduction of work or would have significant adverse impact on bargaining unit work.
- * Grievance -- AMSP agrees to waive the right to file a grievance or any other judicial or administrative action with regard to the additional retirement contributions as calculated by the City under the agreement reached between the City and AMSP for Fiscal Year 2010-2011.

Reopener

- * Total Compensation -- In the event the City reaches a settlement with any other employee unit covering the period of the agreement that has an ongoing total compensation reduction of less than ten percent (10%), in any form or manner, the agreement will reopen on the subject of total compensation and the parties will meet and confer to determine how the difference between a 10% ongoing total compensation reduction and the lesser amount agreed to with any other employee unit will be provided.

This provision will also apply in the event the City reaches a settlement which does not include the roll back of any general wage increase (not including step and/or merit increases), received by any employee unit in Fiscal Year 2010-2011.

This provision will not apply to any changes made to any employee unit which occurs as the result of an interest arbitration award.

- * Vacation Sallback -- In the event the City reaches a settlement with any other employee unit eligible to sell back accrued vacation hours that does not eliminate the Vacation Sallback program effective the beginning of the first pay period of payroll calendar year 2013, absent other equivalent concessions received from such employee unit in lieu of eliminating Vacation Sallback, the agreement will reopen on the subject of Vacation Sallback.
- * Disability Leave Supplement (DLS) -- In the event the City reaches a settlement with any other employee unit, excluding employees covered by Labor Code Section 4850, that does not eliminate DLS effective June 24, 2012, the agreement will reopen on the subject of DLS.

RD:EJM
4/7/11

RES. NO. 75778

HONORABLE MAYOR AND CITY COUNCIL
April 5, 2011
Subject: Approval of an Agreement with AMSP
Page 6 of 7

EVALUATION AND FOLLOW-UP

None.

PUBLIC OUTREACH/INTEREST

- ☒ Criteria 1: Requires Council action on the use of public funds equal to \$1 million or greater. (Required: Website Posting)
- ☐ Criteria 2: Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. (Required: E-mail and Website Posting)
- ☐ Criteria 3: Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. (Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)

This item meets Criterion 1. This memorandum will be posted on the City's website for the April 19, 2011, Council Agenda.

COORDINATION

This memorandum was coordinated with the City Manager's Budget Office and the City Attorney's Office.

COST IMPLICATIONS

For Fiscal Year 2010-2011, AMSP agreed to concessions that achieved a 10% total compensation reduction, 5% ongoing and 5% one-time. These concessions included ongoing and one-time additional retirement contributions to offset the City's retirement costs and a base pay reduction. Effective June 23, 2011, the concessions agreed to for Fiscal Year 2010-2011 will cease and will be replaced with the concessions in the new agreement.

The terms of the Tentative Agreement, which make the 5% one-time total compensation reduction ongoing, generate additional ongoing savings of approximately \$590,000 in all funds and approximately \$175,000 in the General Fund. These savings are based on the 2011-2012 Base Budget as of April 4, 2011. These savings do not assume any recommended reductions in AMSP positions, adjustments necessary to maintain the annual required retirement contributions, and the associated loss of overhead from other funds as well as associated loss of fees and charges revenue that will likely be included as part of the Proposed and Adapted Budget process. The budgetary savings will be assumed in the 2011-2012 Proposed Operating Budget scheduled for release on May 2, 2011. These savings do not include the currently unknown cost increases for healthcare for the second half of Fiscal Year 2011-2012.

Council Agenda: 4/19/11
Item No: 3.4

GURZA000241

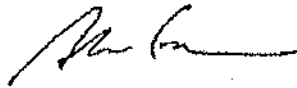
RD:EJM
4/7/11

RES. NO. 75778

HONORABLE MAYOR AND CITY COUNCIL
April 5, 2011
Subject: Approval of an Agreement with AMSF
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CEQA

CEQA: Not a Project, File No. PP10-069(b), Personnel Related Decisions.



Alex Gurza
Director of Employee Relations

For questions please contact Alex Gurza, Director of Employee Relations, at (408) 535-8150.

Attachment

**CITY OF SAN JOSE
AND
ASSOCIATION OF MAINTENANCE SUPERVISORY PERSONNEL (AMSP)
TENTATIVE AGREEMENT**

TERM

July 1, 2011 – June 30, 2013

WAGES

See attached

HEALTHCARE COST SHARING

See attached

HEALTHCARE CO-PAYS

See attached

HEALTH AND DENTAL IN LIEU

See attached

HEALTHCARE DUAL COVERAGE

See attached

DISABILITY LEAVE SUPPLEMENT

See attached

VACATION SELLBACK

See attached

SIDE LETTERS

- Retirement Benefits for current and new employees (See attached)
- Layoff (See attached)
- Supplemental Retiree Benefit Reserve (SRBR) (See attached)
- Subsidy for Public Transit (See attached)
- Sick Leave Payout (See attached)
- Contracting Out (See attached)
- Grievance – Fiscal Year 2010-2011 Additional Retirement Contributions (See attached)

CITY OF SAN JOSE
AND
ASSOCIATION OF MAINTENANCE SUPERVISORY PERSONNEL (AMSP)
TENTATIVE AGREEMENT

REOPENER

1. Total Compensation

In the event that the City reaches a settlement with any other employee unit covering the time period of this Agreement that has an ongoing total compensation reduction of less than ten percent (10%), in any form or manner, this agreement will reopen on the subject of total compensation and the parties will meet and confer to determine how the difference between a 10% ongoing total compensation reduction and the lesser amount agreed to with any other employee unit will be provided.

This provision will also apply in the event the City reaches a settlement which does not include the roll back of any general wage increase (not including any step and/or merit increases), as authorized by the City Council on November 25, 2010, received by any employee unit in Fiscal Year 2010-2011.

This provision will not apply to any changes made to any employee unit which occurs as the result of an interest arbitration award that is the result of contested issues resolved only via a full evidentiary hearing and substantive briefing.

2. Vacation Sellback

In the event the City reaches a settlement with any other employee unit eligible to sell back accrued vacation hours that does not eliminate the Vacation Sellback program effective the beginning of the first pay period of payroll calendar year 2013, absent other equivalent concessions received from such employee unit in lieu of eliminating Vacation Sellback, this agreement will reopen on the subject of Vacation Sellback and the parties will meet and confer to determine the provisions of the Vacation Sellback program for payroll calendar year 2013.

3. Disability Leave Supplement (DLS)

In the event the City reaches a settlement with any other employee unit, excluding any employees covered by Labor Code Section 4850, that does not eliminate DLS effective June 24, 2012, this agreement will reopen on the subject of DLS and the parties will meet and confer to determine the provisions of the DLS program for the time period between June 24, 2012, and the term of this agreement.

FOR THE CITY:

Challey Rodriguez

For AMSP

Phil L. Schaly 3/23/11

President

Phil L. Schaly 3/23/11
V.P.

March 23, 2011
Page 2 of 3

GURZA000244

CITY OF SAN JOSE
AND
ASSOCIATION OF MAINTENANCE SUPERVISORY PERSONNEL (AMSP)
TENTATIVE AGREEMENT

This agreement is still considered tentative and shall not be considered final or binding until ratified by the membership and approved by the City Council. This document sets forth the full agreements of the parties reached during these negotiations. Anything not included in this document is not part of the Tentative Agreement.

FOR THE CITY:

Aracely Rodriguez 3/23/11
Aracely Rodriguez Date
Senior Executive Analyst

FOR THE UNION:

Dale Dapp 3/23/2011
Dale Dapp Date
President
Association of Maintenance
Supervisory Personnel (AMSP)

Phyllis L. Schulz 3/23/11
V.P. for AMSP

2011 CITY OF SAN JOSE - AMSP

CITY PROPOSAL - WAGES

Proposed Language:

Effective June 26, 2011, all salary ranges for employees holding positions in classifications assigned to AMSP shall be decreased by approximately 10.1%. This will result in the top and bottom of the range of all classifications represented by AMSP being 10.1% lower. All employees will receive a 10.1% base pay reduction.

This language is intended to replace the language in:

- The section entitled "Salary/Additional Retirement Contributions" in the AMSP Benefit & Compensation Summary.

Note:

The City will "undo" one-time and ongoing additional employee retirement contributions that offset the City's retirement contribution rates and stop "one-time" base rate concessions made in Fiscal Year 2010-2011 effective June 25, 2011.

FOR THE CITY:

Graciely Rodriguez

For AMSP

Paul T. O'Connell 3/23/2011
President

Phyllis G. Schulz 3/23/11
V.P. for AMSP

2011 CITY OF SAN JOSE - AMSP

CITY PROPOSAL - HEALTHCARE COST SHARING

Proposed Language:

Effective pay date July 1, 2011, the City pays eighty-five percent (85%) of the cost of the lowest priced plan for the employee or the employee and dependent coverage and the employee pays fifteen percent (15%) of the premium for the lowest priced plan. If the employee selects a plan other than the lowest priced plan, the employee pays the difference between the total cost of the selected plan and the City's contribution towards the lowest priced plan.

This language shall be added under:

- Health Insurance Section of the AMSP Compensation Summary (previous references to cost sharing will be deleted)

FOR THE CITY:

Manuel Rodriguez

For AMSP

Don F. Schuly 3/23/11
President

Phyllis D. Schuly 3/23/11
V.P.

2011 CITY OF SAN JOSE - AMSP

CITY PROPOSAL - HEALTHCARE CO-PAYS

Proposed Language:

Effective pay date July 1, 2011, a \$25 Co-pay plan shall be implemented for all HMO plans, including the following changes:

- a. Office Visit Co-pay shall be increased to \$25
- b. Prescription Co-pay shall be increased to \$10 for generic and \$25 for brand name
- c. Emergency Room Co-pay shall be increased to \$100
- d. Inpatient/Outpatient procedure Co-pay shall be increased to \$100

This language shall be added under:

- *Health Insurance Section of the AMSP Compensation Summary (previous references to co-pays will be deleted)*

FOR THE CITY:

(Shelly Rudiger)

For AMSP

[Signature] 3/23/2011

President

Phyllis G. Schulz 3/23/11

V.P.

2011 CITY OF SAN JOSE – AMSP

CITY PROPOSAL – HEALTH AND DENTAL IN LIEU

Proposed Language:

Effective pay date July 1, 2011, employees who qualify for and participate in the payment in-lieu of health and/or dental insurance program will receive the following per pay period:

	Health in-lieu	Dental in-lieu
If eligible for family coverage	\$221.84	\$19.95
If NOT eligible for family coverage	\$89.09	\$19.95

A City employee who receives healthcare coverage as a dependent of another City employee or retiree shall be deemed not eligible for family coverage.

This language shall be added under:

- *Health and Dental In Lieu Section of the AMSP Compensation Summary*

FOR THE CITY:

Maureen Roungkum

For AMSP

John R. O'Connell

3/23/2011

President

Phyllis V. Schuchly 3/23/11
V.P.

2011 CITY OF SAN JOSE - AMSP

CITY PROPOSAL - HEALTHCARE DUAL COVERAGE

Proposed Language:

An employee may not be simultaneously covered by City-provided medical benefits as a City employee and as a dependent of another City employee or retiree.

This language shall be added under:

- *Health Insurance Section of the AMSP Compensation Summary*

Proposed Language:

An employee may not be simultaneously covered by City-provided dental benefits as a City employee and as a dependent of another City employee or retiree.

This language shall be added under:

- *Dental Insurance Section of the AMSP Compensation Summary*

FOR THE CITY:

Guillermo Rodriguez

For AMSP

W. A. Dyer 3/23/2011
President

Phyllis G. Schulz 3/23/11
V.P.

2011 CITY OF SAN JOSE – AMSP

CITY PROPOSAL – DISABILITY LEAVE SUPPLEMENT

Proposed Language:

Effective June 26, 2011, if required to be absent from work due to a work related illness or injury, employees may receive a supplement which, when added to the Workers' Compensation Temporary Disability, equals 85% of the employees' base salary, up to a maximum of three (3) months (520 hours if used intermittently) for any current or future work-related injury or illness. Any employee who has exceeded three (3) months (or 520 hours if not continually absent) as of June 26, 2011, will no longer be eligible to receive DLS.

After the maximum time limit specified above, the integration of an employee's available leave will occur in the following order: (1) accrued Vacation hours, (2) earned Compensatory Time once Vacation has been exhausted, and (3) accrued Sick Leave once Vacation and Compensatory Time have both been exhausted.

In no event shall an employee receive an amount, including any Workers' Compensation Temporary Disability payments, in excess of the employee's regular base salary.

Effective June 24, 2012, employees shall no longer be eligible to receive DLS.

Part-time and temporary employees are not eligible for this benefit.

This language is intended to replace the language in:

- The section entitled "Disability Leave" in the AMSP Benefit and Compensation Summary

FOR THE CITY:

Charles Rodriguez

For AMSP

Phyllis G. Schulz 3/23/11

President

Phyllis G. Schulz 3/23/11

V.P.

2011 CITY OF SAN JOSE – AMSP

CITY PROPOSAL – VACATION SELLBACK

Proposed Language:

Employees may elect to sell back vacation for a maximum sell back of ninety-six (96) hours of accrued vacation per year.

Effective December 25, 2011, employees may elect to sell back up to a maximum of forty-eight (48) hours of vacation accrued in 2012 and in accordance with the guidelines set below.

Internal Revenue Service (IRS) regulations require the City to report and withhold taxes on the value of the vacation time an employee is *eligible* to sell back. In order to ensure compliance with the IRS requirements and to avoid unanticipated tax consequences for 2012:

- Employees must elect the number of vacation hours they will sell back during 2012, up to the maximum of forty-eight (48) hours, by November 26, 2011. If an employee does not submit an irrevocable election form to Payroll on or before November 26, 2011, the employee will not be eligible to sell back any vacation hours during 2012.
- The election to sell back vacation hours in 2012 is *irrevocable*. This means that employees must sell back the elected number of accrued vacation hours during 2012.
- Employees can elect to sell back only vacation hours accrued during 2012, and any vacation hours accrued and carried over prior to 2012 are not eligible for sell back in 2012.
- Any vacation hours accrued in 2012 will not be available for use until the employee's accrued vacation hours in 2012 equal the number of hours the employee has elected to sell back. Then, only those vacation hours accrued in 2012 over the number of hours the employee elected to sell back in 2012 will be available for use by the employee. This means that hours elected for sell back may only be used for sell back purposes and cannot be used for vacation time off purposes.
- Employees may use any vacation hours accrued and carried over prior to 2012, subject to the normal rules of requesting use of vacation. Any vacation hours accrued and carried over prior to 2012 are not eligible for sell back.

Effective the beginning of the first payperiod of payroll calendar year 2013, employees will no longer be eligible to sell back any accrued vacation hours. This means that the Vacation Sellback program is eliminated.

This language is intended to replace the language in:

- The section entitled "Vacation Sellback" in the AMSP Benefit & Compensation Summary.

FOR THE CERM:

Wendy Rodriguez

City of San Jose
March 23, 2011

For AMSP
Wendy Rodriguez
President
2/23/2011
Phyllis Schuly
3/23/11 V.P.

GURZA000252

Side Letter Agreement

BETWEEN

THE CITY OF SAN JOSE

and

ASSOCIATION OF MAINTENANCE SUPERVISORY PERSONNEL (AMSP)

RETIREMENT REFORM

The City and the Association of Maintenance Supervisory Personnel (AMSP) agree to continue meeting and conferring on pension and retiree healthcare benefits for current and future employees, including but not limited to healthcare benefits. The negotiations may include modification of healthcare (medical and dental) plans available to current employees, including but not limited to plan design.

Either the City or AMSP may provide notice to the other of its request to continue to meet and confer. Upon such notice, the parties shall continue these negotiations within ten (10) calendar days after the City or AMSP receives notice from the other. The City and AMSP shall continue to meet and confer in good faith in an effort to reach a mutual agreement.

If the parties are at impasse and no agreement is reached, either party may invoke the impasse procedures in accordance with the applicable provisions under the Employer-Employee Relations Resolution No. 39367. The parties understand that this means that, notwithstanding any other provision in any successor Memorandum of Agreement, the City will have the right to unilaterally implement in the event that no agreement is reached at the conclusion of negotiations and mandatory impasse procedures. In such event, neither party waives any legal rights.

This Agreement is tentative and shall become effective only as part of the overall agreement on, and only during the term of, a successor agreement between the City and AMSP.

FOR THE CITY:

Aracely Rodriguez 3/23/11
Aracely Rodriguez Date
Office of Employee Relations

FOR AMSP:

[Signature] 3/23/2011
Date Date
Association of Maintenance Supervisory
Personnel (AMSP)

Phyllis L. Schuly 3/23/11
V.P. for AMSP

GURZA000253

Side Letter Agreement

BETWEEN

THE CITY OF SAN JOSE

and

ASSOCIATION OF MAINTENANCE SUPERVISORY PERSONNEL (AMSP)

LAYOFF

The City or the Association of Maintenance Supervisory Personnel (AMSP) may provide notice to the other of its request to meet and confer on modifications to the City's layoff process and procedure. Upon such notice, the parties shall meet within ten (10) calendar days after the City or AMSP receives notice from the other. The City and AMSP shall meet and confer in good faith in an effort to reach a mutual agreement. If the parties are at impasse and no agreement is reached, either party may invoke the impasse procedures in accordance with the applicable provisions under the Employer-Employee Relations Resolution No. 39367. The parties understand that this means that, notwithstanding any other provision in any successor agreement between the City and AMSP, the City will have the right to unilaterally implement in the event that no agreement is reached at the conclusion of negotiations and mandatory impasse procedures.

This Agreement is tentative and shall become effective only as part of the overall agreement on, and only during the term of, a successor agreement between the City and AMSP.

FOR THE CITY:

Aracely Rodriguez
Aracely Rodriguez
Office of Employee Relations
Date

FOR AMSP:

[Signature] 3/23/2011
Date Dapp
Date
Association of Maintenance Supervisory
Personnel (AMSP)

Phyllis LaSchulz 3/23/11
V.P. for AMSP

GURZA000254

Side Letter Agreement

BETWEEN

THE CITY OF SAN JOSE

and

ASSOCIATION OF MAINTENANCE SUPERVISORY PERSONNEL (AMSP)

SUPPLEMENTAL RETIREE BENEFIT RESERVE (SRBR)

The City and the Association of Maintenance Supervisory Personnel (AMSP) agree to discuss the Supplemental Retiree Benefit Reserve (SRBR) program in the Federated City Employees' Retirement System.

Either the City or AMSP may provide notice to the other of its request to discuss the SRBR program. Upon such notice, the parties shall continue these discussions within ten (10) calendar days after the City or AMSP receives notice from the other.

To the extent that any change to the SRBR program is a mandatory subject of bargaining, the City and AMSP shall meet and confer in good faith in an effort to reach a mutual agreement. If the parties are at impasse and no agreement is reached on those issues that are a mandatory subject of bargaining, either party may invoke the impasse procedures in accordance with the applicable provisions under the Employer-Employee Relations Resolution No. 39367. The parties understand that this means that, notwithstanding any other provision in any successor agreement between the City and AMSP, the City will have the right to unilaterally implement in the event that no agreement is reached at the conclusion of negotiations and mandatory impasse procedures.

This Agreement is tentative and shall become effective only as part of the overall agreement on, and only during the term of, a successor agreement between the City and AMSP.

FOR THE CITY:

Aracely Rodriguez 3/23/11
Aracely Rodriguez Date
Office of Employee Relations

FOR AMSP:

[Signature] 3/23/2011
Date Date
Association of Maintenance Supervisory
Personnel (AMSP)

Phyllis G. Schulz 3/23/11
V.P. for AMSP

GURZA000255

Side Letter Agreement

BETWEEN

THE CITY OF SAN JOSE

and

ASSOCIATION OF MAINTENANCE SUPERVISORY PERSONNEL (AMSP)

SUBSIDY FOR PUBLIC TRANSIT

The City and the Association of Maintenance Supervisory Personnel (AMSP) agree to discuss the programs available to employees that provide subsidy for public transit. Discussions shall include, but not be limited to, modifications to the programs, voucher amounts and elimination of the programs.

Either the City or AMSP may provide notice to the other of its request to discuss the programs available to employees that provide subsidies for public transit. Upon such notice, the parties shall continue these discussions within ten (10) calendar days after the City or AMSP receives notice from the other.

To the extent that any change to the programs may be a mandatory subject of bargaining, the City and AMSP shall meet and confer in good faith in an effort to reach a mutual agreement. If the parties are at impasse and no agreement is reached, either party may invoke the impasse procedures in accordance with the applicable provisions under the Employer-Employee Relations Resolution No. 39367. The parties understand that this means that, notwithstanding any other provision in any successor agreement between the City and AMSP, the City will have the right to unilaterally implement in the event that no agreement is reached at the conclusion of negotiations and mandatory impasse procedures.

This Agreement is tentative and shall become effective only as part of the overall agreement on, and only during the term of, a successor agreement between the City and AMSP.

FOR THE CITY:

Aracely Rodriguez 3/23/11
Aracely Rodriguez Date
Office of Employee Relations

FOR AMSP:

[Signature] 3/23/2011
Date Date
Association of Maintenance Supervisory
Personnel (AMSP)

Phyllis G. Schulz 3/23/11
V.P. for AMSP

GURZA000256

Side Letter Agreement

BETWEEN

THE CITY OF SAN JOSE

and

ASSOCIATION OF MAINTENANCE SUPERVISORY PERSONNEL (AMSP)

SICK LEAVE PAYOUT

The City and the Association of Maintenance Supervisory Personnel (AMSP) agree to continue meeting and conferring on sick leave payout (the section entitled "Sick Leave Payout") for current and future employees.

Either the City or AMSP may provide notice to the other of its request to meet and confer. Upon such notice, the parties shall continue these negotiations within ten (10) calendar days after the City or AMSP receives notice from the other. The City and AMSP shall meet and confer in good faith in an effort to reach a mutual agreement. If the parties are at impasse and no agreement is reached, either party may invoke the impasse procedures in accordance with the applicable provisions under the Employer-Employee Relations Resolution No. 39367. The parties understand that this means that, notwithstanding any other provision in any successor agreement between the City and AMSP, the City will have the right to unilaterally implement in the event that no agreement is reached at the conclusion of negotiations and mandatory impasse procedures.

This Agreement is tentative and shall become effective only as part of the overall agreement on, and only during the term of, a successor agreement between the City and AMSP.

FOR THE CITY:

FOR AMSP:

Aracely Rodriguez
Aracely Rodriguez
Office of Employee Relations

3/23/11
Date

Debbie Papp
Debbie Papp
Association of Maintenance Supervisory
Personnel (AMSP)

3/23/2011
Date

Phyllis G. Schulz
V. P. for AMSP
3/23/11

Side Letter Agreement

BETWEEN

THE CITY OF SAN JOSE

and

THE ASSOCIATION OF MAINTENANCE SUPERVISORY PERSONNEL (AMSP)

CONTRACTING OUT

The City agrees to meet and confer with AMSP prior to contracting out work currently performed by bargaining unit members whenever such contracting out would result in material reduction of work done by bargaining unit members or would have significant adverse impact on bargaining unit work. It is agreed that position reductions, which result in lay-off of employees in the bargaining unit constitute significant impact on bargaining unit work.

This Agreement is tentative and shall become effective only as part of the overall agreement on, and only during the term of, a successor agreement between the City and AMSP.

FOR THE CITY:

FOR AMSP:

Aracely Rodriguez 3/23/11
Aracely Rodriguez Date
Office of Employee Relations

Dale Dapp 3/23/2011
Dale Dapp Date
Association of Maintenance Supervisory
Personnel (AMSP)

Phyllis G. Schuly 3/23/11
V.P. for AMSP

Side Letter Agreement

BETWEEN

THE CITY OF SAN JOSE

and

ASSOCIATION OF MAINTENANCE SUPERVISORY PERSONNEL (AMSP)

GRIEVANCE

Effective June 27, 2010, the Association of Maintenance Supervisory Personnel (AMSP) agreed to make additional retirement contributions. Per the agreement for Fiscal Year 2010-2011 between the City and AMSP, employees represented by AMSP were to make additional retirement contributions to reduce the City's required retirement contributions as part of a total compensation reduction. As the additional retirement contributions to be made by employees represented by AMSP could not be immediately implemented, the additional retirement contributions were calculated by the City.

As part of the overall agreement on a successor agreement between the City and AMSP, AMSP agrees and hereby waives the right to file any and all grievances and any action, judicial or administrative, which may or may not have heretofore been instituted in regard to or in any way related to the additional retirement contributions as calculated by the City.

This Agreement is tentative and shall become effective only as part of the overall agreement on a successor agreement between the City and AMSP.

FOR THE CITY:

Aracely Rodriguez 3/23/11
Aracely Rodriguez Date
Office of Employee Relations

FOR AMSP:

[Signature] 3/23/2011
Date Date
Association of Maintenance Supervisory
Personnel (AMSP)

Phyllis G. Schulz 3/23/11
V.P. for AMSP